

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Misc. No.29009-CII of 2014 in/and
Civil Revision No.7542 of 2014
Date of decision: 6.1.2015

Bisamber

....Petitioner

Versus

Ravinder and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. A.P.Bhandari, Advocate for the petitioner.

G.S.Sandhawalialia J.(Oral)

Civil Misc. No.29009-CII of 2014

Prayers made in this Civil Misc. Application for placing on record the affidavit of the petitioner is allowed subject to just exceptions.

Affidavit of the petitioner is taken on record.

Office to tag the same at appropriate place in the file,

The Civil Misc. Application stands disposed of accordingly.

Civil Revision No.7542 of 2014

1. Challenge in the present revision petition filed under Article 227 of the Constitution of India by the owner of the vehicle is to the order dated 11.7.2014 (Annexure P/1) passed by the Motor Accident Claim Tribunal, Palwal whereby defence of the petitioner was struck off on account of non filing of the written statement. On 10.11.2014, the following order was passed:-

“Counsel contends that the petitioner is the registered owner of the offending vehicle based in District Bharatpur whose defence has been struck off. It is further submitted that costs could have been imposed firstly instead of passing the impugned order. It is further pointed out that the case is fixed for 02.12.2014 and the petitioner will file the written statement on the said date and he does not want to delay the case. It is submitted that respondent no.3 would be the affected party since it is the insurance company.”

Notice of motion for 08.12.2014. Dasti to respondents no.1 and 4 only and also to their counsel.

In the meantime, the petitioner shall be entitled to file the written statement on 02.12.2014, subject to costs of ₹ 10,000/- to be paid to the claimant-respondent no.1.

The petitioner shall file an affidavit on the next date that the costs of ₹ 10,000/- have been paid.”

2. The affidavit in compliance of the aforesaid order has been filed wherein it has been averred that the costs of ₹ 10,000/- have been paid to the claimant-respondent on 2.12.2014.

3. As per office report respondents have been served but none has put in appearance on their behalf. It is, thus, apparent that in view of the costs which had been directed to be paid and the petitioner having been held entitled to file written statement, the respondents are not interested in contesting the case.

4. In view of the reasons which have been given that the written statement could not be filed within the prescribed time and keeping in view the principle that rules of procedure are handmaids of justice and not its mistress, the present revision petition is allowed. The impugned order to the extent of striking off defence of the petitioner is set aside. Since the petitioner has now filed the written statement on payment of costs, the Tribunal shall proceed in accordance with law.

06.01.2015
Pka

(G.S.SANDHAWALIA)
JUDGE