

CR No.794 of 2015

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.794 of 2015
Date of decision:04.02.2015**

Brij Mohan Tripathi

...Petitioner

Versus

The Lehri Veeran Cooperative Labour and
Construction Society Limited and another

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Vipin Mahajan, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has challenged the order dated 28.07.2014 by which his defence has been struck off for not filing the written statement in time.

Counsel for the petitioner has prayed for one opportunity to file the written statement subject to payment of costs.

I have heard learned counsel for the petitioner and after perusal of record, it is found that the plaintiff has filed the suit for recovery of ₹1,17,000/- along with interest @ 18% per annum. The petitioner is the Executive Officer of the Municipal Committee, Gurdaspur who did not file the written statement despite the orders dated 24.04.2014, 20.05.2014 and 04.07.2014.

In the order dated 04.07.2014, the opportunity was granted subject to payment of ₹300/- as costs. Surprisingly, the petitioner did not even care to deposit the costs of ₹300/- as directed by the Court and again

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prayed for an adjournment for the purpose of filing written statement. The learned trial Court, vide the impugned order dated 28.07.2014, rejected the prayer of the petitioner specially observing that the petitioner has neither filed the written statement nor even deposited the costs. It is really surprising that the Executive Officer of the Municipal Committee, Gurdaspur is behaving like an ordinary litigant inasmuch as he is not defending the suit for recovery filed by the plaintiff against the Municipal Committee in the proper manner as no effort was made by him to file the written statement within the time prescribed by the Code of Civil Procedure, 1908 and even did not deposit the costs of ₹300/- in the District Legal Services Authority, as ordered by the trial Court on 04.07.2014 for the reasons best known to him.

In such a situation, the plaintiff would definitely have an edge over the defendant in the suit filed for recovery for which the Executive Officer, who has filed the present revision, is responsible for having not filed the written statement in time and also even not depositing the costs when another adjournment was sought for the purpose of filing the written statement.

In view of the totality of the facts and circumstances, I do not find any reason to interfere in the impugned order and hence, the present revision petition is hereby dismissed.

February 04, 2014
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(Rakesh Kumar Jain)
Judge