

Civil Revision No.4345 of 2016 (O&M)

-1-

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

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Civil Revision No.4345 of 2016 (O&M)

Date of Decision: August 03, 2016

AJAY PARTAP SINGH

-PETITIONER

VS

GURDIAL SINGH AND ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Gurinderjit Singh, Advocate
for the petitioner.

Mr.D.D.Gupta, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Petitioner has assailed order dated 19.05.2016 passed by Civil Judge (Sr. Divn.), Chandigarh vide which defence of the defendant-petitioner was struck off for want of written statement. The written statement was not filed within conventional period of 90 days.

Petitioner is a defendant in the suit for recovery of Rs.38,81,025/-.

{2}. At the time of issuance of notice of motion, following order was passed on 21.07.2016:-

“Learned counsel for the petitioner contends that the case was adjourned from 20.11.2015 to 12.01.2016 when memorandum of appearance was filed by learned counsel for the petitioner. In the meanwhile, the Presiding Officer remained on leave from 04.01.2016 to 09.01.2016 and from 11.01.2016 to 13.01.2016 and the file was taken up in advance and orders were passed and the case was adjourned to 05.02.2016. Again on 05.02.2016, Presiding Officer was on leave, ultimately, case was adjourned to 09.03.2016. On 09.03.2016, the case was taken up in second half of the working day and the case was further adjourned to 18.04.2016. On 18.04.2016, the Presiding Officer relinquished the charge and the

case was ultimately adjourned to 19.05.2016.

Learned counsel for the petitioner seeks one more opportunity to file written statement subject to payment of adequate cost.

Notice of motion for 03.08.2016.

Dasti as well.”

{3}. Pursuant to that order, Mr. D.D.Gupta, Advocate appears on behalf of the respondents. Though there is apparent latch on behalf of the petitioner but the same is sought to be diluted by the petitioner with number of events which took place during proceedings of the Court. Factual details have already been incorporated in the order dated 21.07.2016.

{4}. Learned counsel for the petitioner seeks indulgence of this Court for grant of one last opportunity to file written statement subject to payment of adequate cost by admitting that there was some omission on the part of the defendant-petitioner, but the period of 90 days was not mandatory as held in **Salem Advocate Bar Association, Tamil Nadu vs. Union of India, 2005 (6) SCC 344.**

{5}. Be that as it may, learned counsel for the respondent fairly submits that in case adequate cost is paid, one last opportunity be granted to the petitioner for filing written statement. In my considered view, petitioner can be granted one more last opportunity to file written statement subject to payment of cost of Rs.25,000/- to be paid in advance before filing written statement in the Court. Payment of cost would be a condition precedent for filing of written statement on a date to be specified by the trial Court.

{6}. Accordingly, this revision petition is disposed of.

03.08.2016

(RAJ MOHAN SINGH)

Jyoti Y.

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No