

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 4630 of 2015 (O&M)
Date of decision : April 22, 2016

Sukhdev Singh

..... Petitioner

Versus

Surinder Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. K. S. Rekhi, Advocate
for the petitioner.

Mr. Divanshu Jain, Advocate
for the respondent.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The petitioner-defendant is aggrieved of the impugned order dated 8.5.2014 (Annexure P-1) whereby his defence has been struck off for non-filing of the written statement & order dated 28.5.2015 (Annexure P-4) whereby application under Section 151 CPC seeking permission to file written statement has been dismissed.

This Court while issuing notice of motion directed the petitioner to deposit costs of ₹20,000/- with the Registry. As per office report dated 29.9.2015, costs have been deposited vide receipt No.1048 dated 3.8.2015.

Learned counsel appearing on behalf of the petitioner submits that written statement is ready and in case, an opportunity is granted the same shall be filed immediately and already the opposite party is compensated with payment of costs.

Learned counsel appearing on behalf of the respondent submits that application seeking permission of the court to file written statement is highly belated. No explanation has come forth in not approaching this Court or moving any application before the trial court after striking off the defence on 8.5.2014. Even, as per zimni orders petitioner-defendant had been seeking adjournments for cross-examination of plaintiff's witnesses and on some dates cross-examination has been effected. He further submits that it is too late in a day to grant an opportunity to file written statement which tantamounts to de novo trial.

I have heard learned counsel for the parties and appraised the paper book and of the view that no doubt that petitioner-defendant had been very callous and lackadaisical in approaching the Court seeking permission to file written statement. In essence, it is highly belated but the fact remains that this Court had already thought of compensating the respondent and imposed costs of ₹20,000/- which has already been deposited.

In view of the aforementioned facts, in order to prevent mis-carriage of justice and advance justice, I deem it appropriate to grant week's time to the petitioner-defendant from receipt of certified copy of order to file written statement with a rider that they will not seek re-examination of plaintiff's witnesses who

have already been cross-examined. The trial will proceed from the stage it was at.

With the aforementioned observations, the impugned order is set aside. The revision petition stands allowed.

The costs of ₹20,000/- is ordered to be released to the counsel for the respondent-plaintiff in this Court namely Mr. Divanshu Jain.

(AMIT RAWAL)
JUDGE

April 22 , 2016
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