

Civil Revision No.4641 of 2015

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

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**Civil Revision No.4641 of 2015
Date of Decision: August 03, 2016**

RAM SINGH

-PETITIONER

VS

GAURAV & ORS

-RESPONDENTS

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Rajinder Goyal, Advocate
for the petitioner.

Mr.Mohit Garg, Advocate
for the respondents.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Petitioner has assailed orders dated 18.09.2012 and 01.05.2015 passed by Civil Judge (Junior Division), Kaithal whereby defence of the defendant was struck off and the application for recalling of order was dismissed.

{2}. While issuing notice of motion, this Court has also deliberated upon certain facts and without expressing any opinion on merits of this case, put the petitioner to certain terms. The Court was conscious of the facts of the case and struck balance between rights of the parties for early disposal of the suit by proposing to impose adequate cost for delaying the proceedings at the hands of the petitioner-defendant. The defence of the petitioner-defendant was struck off for want of filing of written statement. This Court was of tentative view that one opportunity can be granted to the petitioner-defendant subject to payment of adequate cost. At the first instance, an amount of Rs.25,000/- was thought as appropriate provisional cost to be paid to the plaintiff-respondent and a period of 10 days was given for depositing the cost with the Registry of the Court. There was some delay at the hands of the petitioner, for which indulgence of this Court was sought by way of moving Civil Miscellaneous Application No.16050-C-2015 which was allowed vide order dated 10.08.2015, thereby giving three more days time to the petitioner to deposit the amount of Rs.25,000/- with the Registry of the Court. Petitioner duly

complied with the requirement by depositing the amount with the Registry on 06.08.2015.

{3}. Pursuant to notice of motion, Mr. Mohit Garg, Advocate appears on behalf of the respondents. Learned counsel for the respondents on instructions from Mr. Shiv Kumar, respondent No.3 states that one opportunity be given to the petitioner to file written statement subject to payment of enhanced cost.

{4}. I have considered the prayer made by learned counsel for the respondents. In the light of facts on record without meaning anything on merits, I intend to impose cost of Rs.40,000/- inclusive of amount of Rs.25,000/- as provisional cost as already ordered by this Court. Since, the amount of Rs.25,000/- already stands deposited with the Registry, the remaining amount of Rs.15,000/- be paid in cash to the defendants before the exercise of filing written statement as undertaken by the defendants. The amount lying with the Registry be paid to the plaintiff-respondent on proper identification by their counsel.

{5}. Accordingly, this revision petition is allowed. Impugned

orders are set aside. Petitioner is granted one opportunity to be fixed by the trial Court for filing the written statement. It is made clear that payment of remaining cost would be a condition precedent for granting indulgence for filing written statement before the trial Court.

03.08.2016

(RAJ MOHAN SINGH)

Jyoti Y.

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No