

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

CR No.4676 of 2016
Date of decision : 25.07.2016

M/s Phill Systems Ltd.

...Petitioner

Versus

M/s Soni Colour Lab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Gaurish Agni, Advocate and
Mr. Prashant Aggarwal, Advocate for the petitioner.

AMIT RAWAL, J. (Oral)

Present revision petition is at the instance of the defendant No.1 who is aggrieved of the impugned order dated 02.07.2016, whereby application seeking liberty/leave of the Court to file written statement has been declined on the ground that statutory period of 90 days, had elapsed.

Mr. Gaurish Agni, learned counsel appearing on behalf of the petitioner submits that on appearance, the petitioner-defendant had taken few dates i.e. 15.09.2013 and 16.10.2013 for filing the written statement but however on 20.11.2013 application under Order 7 Rule 11 read with Section 151 CPC was filed seeking rejection of the plaint. Same was dismissed on

23.04.2015 and the issues were framed. The other defendant No.2 had already filed written statement, thus, issues were framed after referring to the aforementioned pleadings.

He further submits that since the focus of the Court is on adjudication of the application though written statement had already been prepared but realizing inadvertence, application was moved but same has been erroneously dismissed and thus urges this Court for setting aside of the impugned order.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that on two occasions, no doubt the Court had granted opportunity to file written statement but on 20.11.2013 as indicated from the 'zimni order', application under Order 7 Rule 11 read with Section 151 CPC was filed. It is conceded position on record that same has been dismissed vide order dated 23.04.2015 and the issues have been framed owing to the fact that the defendant No.2 had already filed written statement.

I am of the view that provision of Order 8 Rule 1 CPC, though strictly adhered to but Court could have permitted to file written statement at the instance of defendant subject to the terms and conditions as aforementioned provision of law have been held to be directory in nature in view of law laid down by Hon'ble Supreme Court in *Salem Bar Association Vs. UOI, 2005(6) SCC 344*.

Accordingly, impugned order is set aside.

Revision petition is allowed.

Petitioner-defendant No.1 is granted last opportunity to file

written statement i.e. on 01.08.2016 as the suit is stated to have been listed,
subject to the cost of ₹5000/-. Cost shall be condition precedent.

25.07.2016

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**(AMIT RAWAL)
JUDGE**

Whether speaking/reasoned: Yes

Whether reportable:- Yes/No