

Civil Revision No.4897 of 2014

Date of Decision: 23.4.2016

Harbans Singh

---Petitioner

versus

Inderjit Singh

---Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

Present: Mr. Ankit Kaushal, Advocate
for the petitioner

None for the respondent

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

Rekha Mittal, J.

The present petition has been directed against order dated 20.5.2014 (Annexure P-4) whereby application filed by the petitioner for recalling order dated 8.4.2011 has been dismissed.

Counsel for the petitioner has submitted that the respondent/plaintiff has filed an application under Order 40 Rule 1 read with Section 151 of the Code of Civil Procedure (in short "CPC") for appointment of receiver. The petitioner was earlier being represented by Sh. S.K.Aggarwal, Advocate who failed to file reply to the application and as a result, right of the petitioner to controvert the allegations in the application has been scuttled. It is further submitted that as the respondent has raised serious allegations against the petitioner in regard to misappropriation and

embezzlement of machines, assets and property of the firm, a serious prejudice would be caused to the petitioner in case he is not permitted to file reply to the application. It is further submitted that delay attributable to the petitioner for his failure to file reply can well be taken care of by imposing costs payable to the other party when otherwise the respondent has not appeared before this Court to contest the proceedings.

I have heard counsel for the petitioner and perused the records.

Be that as it may, it is an admitted position of the case that right of the petitioner to file reply to the application for appointment of receiver setting up serious allegations of misappropriation and embezzlement has been closed for failure of his counsel to file reply to the said application despite four opportunities granted by the Court. The respondent has not put in appearance despite service to controvert the contentions raised in the petition. In the given facts and circumstances coupled with the principle of natural justice, the petitioner is allowed one opportunity to file reply to the application subject to payment of costs of Rs. 10,000/- to be deposited with the Legal Services Authority, Ludhiana well before filing reply before the trial court.

Disposed of accordingly.

(Rekha Mittal)
Judge

23.4.2016
PARAMJIT