

IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH
Civil Revision No.5249 of 2016 (O&M)
Date of decision: 30th August, 2016

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I attest to the accuracy and
integrity of this document

Veena Kumari

...Petitioner

Versus

Hari Krishan Kakar

...Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Rakesh K.Kaundal, Advocate, for the petitioner.

Mr. K.R.Dhawan, Advocate, for the respondent.

REKHA MITTAL, J (ORAL)

The present petition has been directed against the order dated 28.07.2015, passed by the Civil Judge (Junior Division), Chandigarh, whereby application of the petitioner to file additional and final written statement has been dismissed.

Counsel for the petitioner has submitted that the application filed by the petitioner has been dismissed on the sole ground that there is no provision in the Code of Civil Procedure (in short 'CPC') under which additional written statement can be filed. It is argued that in Rule 9 of Order 8 CPC, the Court at any time requires a written statement or additional written statement from any of the parties and fix a time of not more than 30 days for presenting the same. It is further submitted that the impugned order is clearly contrary to what has been provided under Rule 9 of Order 8 CPC, therefore, the petitioner may be permitted to file the additional written statement.

Counsel for the respondent, on the contrary, has submitted that the petitioner not only sought filing of additional written statement but she also prayed for withdrawing the earlier written statement, filed by her but there is no provision in CPC, permitting the defendant to withdraw the earlier written statement.

I have heard counsel for the parties and perused the paper book particularly the impugned order.

Be that as it may, counsel for the respondent has not disputed that under Rule 9 of Order 8 CPC, the Court is competent to require the written statement or additional written statement to be filed by any of the parties. A relevant extract from Rule 9 of order 8 CPC reads as follows:-

“No pleading subsequent to the written statement of a defendant other than by way of defence to set off or counter-claim shall be presented except by the leave of the Court and upon such terms as the Court thinks fit; but the Court may at any time require a written statement or additional written statement from any of the parties and fix a time of not more than thirty days for presenting the same.”

Keeping in view the aforesaid order passed by the trial Court holding that there is no provision in CPC under which additional written statement could have been filed, cannot be allowed to sustain and is accordingly set aside.

In view of what has been discussed above, the petition is partly allowed. The impugned order is set aside and the matter is remitted to the trial Court for decision on the application afresh in the light of aforesaid provisions of CPC after hearing the parties in accordance with law. Nothing stated in the order shall be construed as an expression of opinion on merits of the case.

(REKHA MITTAL)
JUDGE

30th August, 2016
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