

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6537 of 2015
Date of decision : May 12, 2016

Amarjit Singh

..... Petitioner

Versus

Pargat Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Aayush Gupta, Advocate
for the petitioner.

Mr. Gulzar Mohammad, Advocate
for the respondents.

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).

Learned counsel for the petitioner submits that the impugned order is perverse. The ex-parte proceedings dated 12.9.2012 were set aside vide order dated 20.7.2013 with a rider to join the proceedings from the date when the suit was stated to be pending.

He further submits that the suit was slated for respondents'-plaintiffs' evidence. However, by that time plaintiff has not examined all the witnesses, it is in these circumstances, the petitioner sought indulgence of this Court to file written statement so that the cross-examination may not be beyond the pleadings. This

Court while noticing the aforementioned contentions issued notice of motion on 5.10.2015. The order reads thus:-

Learned counsel for petitioner-defendant No.1 submits that petitioner-defendant No.1 was proceeded ex-parte, vide order dated 12.09.2012. However, the said order was set aside on 20.07.2013 and the defendant has been allowed to join proceedings from the date when the suit was stated to be pending for examination of the witnesses of the plaintiff. He further submits that as per zimni orders, the respondent-plaintiff had not examined any witnesses, therefore, the application seeking indulgence of the Court to permit petitioner-defendant No.1 to file written statement, has erroneously been rejected, inasmuch, as no prejudice would be caused to the respondent. Even otherwise, any cross examination and evidence which the petitioner intends to file would be rejected on the ground of expression "beyond pleadings".

Notice of motion for 14.01.2016.

In the meantime, further proceedings before the trial Court shall remain stayed."

Learned counsel appearing on behalf of the respondents submits that unnecessary delay has been caused in the proceedings of the suit instituted for recovery of ₹2,89,916/- instituted on 6.12.2011, therefore, rightly so the application seeking permission to file written statement has been declined, thus urges this court for affirming the impugned order.

I have heard learned counsel for the parties and appraised the paper book.

It is a matter of record that the plaintiffs-respondents have not examined any witness so far, in case, written statement is allowed to file, no prejudice would be caused. However, since act of the petitioner-defendant has been callous, I intend to impose costs of ₹10,000/-.

In view of the aforementioned facts, the impugned order is set aside. The petitioner-defendant shall be granted one opportunity to file written statement. The same shall be filed within a period of 15 days of receipt of certified copy of order and thereafter respondents-plaintiffs shall file replication with a week and on re-framing of the issues, the trial shall proceed with trial in accordance with law.

The costs shall be condition precedent and shall be given to the counsel for the respondents-plaintiffs in the High Court.

The civil revisions stands allowed.

(AMIT RAWAL)
JUDGE

May 12 , 2016
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