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

**CR No.1304 of 2017**

**Date of Decision : 06.10.2017**

**CANARA BANK**

**....PETITIONER**

**VERSUS**

**DEEPAK KUMAR AND OTHERS**

**....RESPONDENTS**

**CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK**

Present: Mr. Rahul Dev Singh, Advocate for  
Mr. Rakesh Gupta, Advocate  
for the petitioner.

Mr. Robert Kanwar, Advocate  
&  
Mr. Arun Kumar Bakshi, Advocate  
for respondent No.1.

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**RAMESHWAR SINGH MALIK, JUDGE (ORAL)**

Feeling aggrieved against the order dated 26.10.2016 (Annexure P-2), passed by the learned trial Court, whereby defence of defendants-petitioner bank was struck off, petitioner-bank has approached this Court, by way of instant civil revision petition, under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued and the learned trial Court was directed to adjourn the case beyond the date fixed by this Court.

Heard learned counsel for the parties.

A bare perusal of the impugned order would show that it was

not a well considered but hasty order passed by the learned trial Court, thereby causing serious prejudice to the petitioner-Bank. It is so said because rules of procedure are meant for advancing the cause of justice. Every Court of law must make an endeavour to grant sufficient opportunity to both the parties to the litigation to put up their best case before the Court. Nobody should be forced to go home with the grievance that reasonable opportunity was not granted by the learned Court. By following this principle, the learned Courts shall achieve twin objects (i) it shall avoid multiplicity of litigation between the parties and (ii) the learned Court itself would be in a much better position to do substantial justice between the parties. Since the learned trial Court could not appreciate the abovesaid principle of law, while passing the impugned order, it cannot be sustained.

Further, the learned trial Court, while granting another opportunity to the defendant-petitioner bank for filing its written statement, could have directed the petitioner to compensate the plaintiff by payment of reasonable amount of costs. No doubt, the petitioner had already availed the period of 90 days for filing written statement, which was not filed within time, but the case could not have been put in such a water tight situation that the defendant-petitioner would not be granted one more opportunity to file his written statement before the next date of hearing. Having said that, this Court feels no hesitation to conclude that the learned trial Court failed to exercise the jurisdiction vested in it, while passing the impugned order and the same cannot be sustained for this reason as well.

During the course of hearing, learned counsel for the respondent No.1 could not raise any meaningful argument in support of the impugned order and rightly so because none would be available to the respondent. It goes without saying that expeditious trial of civil as well as criminal cases is the need of the hour. Both the parties to the litigation must assist the Court in best possible manner and without seeking unwarranted adjournments. However, no hard and fast rule can be laid down in this regard because each and every case would be dealt with and decided by the learned Court in view of its peculiar facts situation. So far as the case in hand is concerned, the learned trial Court ought to have granted one last and final opportunity to the defendant to file its written statement, directing it to compensate the plaintiffs by paying reasonable amount of costs.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order dated 26.10.2016 (Annexure P-2 )passed by learned trial Court is hereby set aside.

Learned trial Court is directed to grant one more opportunity to the defendants-petitioner-bank to file its written statement, subject to payment of Rs.5,000/- as costs by the petitioner to the respondent-plaintiff on or before the next date of hearing before the learned trial Court. Thereafter, the learned trial Court shall proceed further with the

matter and decide the case at an early date.

Resultantly, with the above-said observations made and directions issued, the present revision petition stands allowed in abovesaid terms.

( RAMESHWAR SINGH MALIK )  
JUDGE

October 06, 2017  
rajneesh

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| Whether speaking/reasoned: | Yes/No |
| Whether reportable:        | Yes/No |