

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.1305 of 2017
Date of decision:22.2.2017**

Mohit and another

...Petitioners

Versus

Pawan Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Petitioners in person.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the impugned order dated 17.1.2017 passed by the learned trial Court, declining the application of plaintiffs-petitioners under Order 8 Rule 10 read with Section 151 of the Code of Civil Procedure, whereby they prayed for not allowing the defendants to file the written statement beyond a period of 90 days, plaintiffs have approached this Court by way of present revision petition.

Heard the petitioners, who appear in person in the Court.

Entire case of the petitioners is based on technicalities alone. They want that their suit should be decreed *ex parte*. While passing the impugned order, the learned trial Court has rightly appreciated in correct perspective the explanation given by the defendants in filing their written statement after expiry of 90 days. Plaintiffs-petitioners filed their suit on 8.7.2016. Defendants appeared on 16.8.2016 and the written statement was filed by the defendants on 3.11.2016. The explanation given by the defendants for filing the written statement after expiry of 90 days was that the defendants were present in another court on 2.11.2016 and 3.11.2016.

Once the defendants have given a reasonable explanation, pointing out the

genuine difficulty of non-availability of the defendants for the purpose of preparing the written statement at an earlier point of time, the learned trial Court was well within its jurisdiction to pass the impugned order and the same deserves to be upheld.

The above-said view taken by this Court also finds support from the following judgments of the Hon'ble Supreme Court as well as different High Courts including this Court:-

1. **M/s Damodar Ropeways & Construction Co.Private Ltd. Vs. Krishna Engineering Works, 2001 (4) SLT 389;**
2. **Debjani Mishra Vs. Uttam Kumar, 2014 (13) SCC 627;**
3. **Smt.Rani Kusum Vs. Smt.Kanchan Devi and others, 2005 (6) SCC 705;**
4. **A.V.Purushotam Vs. N.K.Nagaraj, 2003 AIR (Karnataka) 417;**
5. **Nasero and others Vs. Alisher, 2011 (3) RCR (Civil) 659 (P&H);**
6. **Sardar Vallabhbhai Patel Smarak Trust Vs. Samarth Nangla, 177 (2011) Delhi Law Times 499.**

It is the settled principle of law that rules of procedure are meant for advancing the cause of justice. Every court of law must make an endeavour to decide the *lis* between the parties on its own merits instead of deciding the same on technicalities. No party should be forced to go home with the grievance that it was not granted due opportunity to put up its best case before the Court. Such an approach adopted by the courts would avoid

multiplicity of litigation between the parties and shall also enable the learned court to do complete and substantial justice by effectively adjudicating the dispute. Only that is what has been done by the learned trial Court in the case in hand, thus, the impugned order deserves to be upheld, for this reason also.

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 the instant civil revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out

Resultantly, with the above-said observations made, the present revision petition stands dismissed, however, with no order as to costs.

22.2.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No