

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

**Civil Revision No.1344 of 2017
Decided on : 23.02.2017**

Rajni

... Petitioner

Versus

Sunny Jain

... Respondent

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Ms. Kulwant Kaur, Advocate
for the petitioner.

G.S. Sandhawalia, J. (Oral)

The challenge in the present revision petition by the plaintiff is to the order dated 21.11.2016 (Annexure P-4) on the ground that the application for leave to defend has been filed on 29.03.2016 beyond the period of 10 days.

The defence taken in the application by the defendant was that the suit was time barred and the entire loan amount had been paid. Resultantly, keeping in view the same, the application was allowed and the objection of the plaintiff that it was not maintainable being time barred was rejected on the ground that it has been filed within the period of limitation on the 10th day i.e. last day of its filing and resultantly, case was fixed for 21.12.2016 for filing the written statement. It is not disputed that a written statement has also been filed on the said date and now the case is fixed for filing replication, consideration and for framing issues.

Counsel for the petitioner has vehemently submitted that the application filed beyond the prescribed period should not have been accepted.

A perusal of the order dated 18.03.2016 (Annexure P-1) when the defendant had put in appearance would go on to show that the case was adjourned to 29.03.2016 for filing of application for leave to defend and summons for judgment were served upon the respondent. The order dated 18.03.2016 read as under:-

“Summons for judgment served upon the defendant. Now the case is adjourned for 29.03.2016 for filing of application for leave to defend.”

It is, thus, apparent that on the very next date itself the application was filed and the case had been adjourned beyond the time which was prescribed for filing the application. The defendant cannot be prejudiced on that account on the principle “*actus curiae neminem gravabit*” the act of the Court will not harm any party.

In such circumstances, the arguments raised that the application for leave to defend was filed beyond the prescribed period cannot be accepted. Accordingly, there is no merit in the present revision petition and same is dismissed in limine.

FEBRUARY 23, 2017
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No