

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

**CR Nos.177 & 2603 of 2017
Date of Decision: August 17, 2017**

Prahlad Rai Khinchi

... Petitioner

Versus

Haryana State Agricultural Marketing Board

... Respondent

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. N.C. Kinra, Advocate,
for the petitioner.

Mr. B.R. Mahajan, Sr. Advocate with
Mr. Saurabh Mago, Advocate
for the respondent.

ANIL KSHETARPAL, J.

By this common order, I shall dispose of CR No.177 of 2017
and CR No. 2603 of 2017.

In CR No.177 of 2017, plaintiff-petitioner has challenged the
order dated 7.12.2016 dismissing the application under Order 6 Rule 16
CPC. The plaintiff had requested the Court to initiate contempt proceedings
and to strike off the defence of the defendant. The plaintiff had asserted that
the written statement has been filed by Virender Kumar Dahiya as Secretary
of the Board, but on 24.05.2016, he was not posted as Secretary of the
defendant-Board. The Court dismissed the application and refused to initiate
contempt proceedings. The court has observed that defence of the defendant
cannot be struck off under Order 6 Rule 16 CPC. Under Order 6 Rule 16

CPC, the Court can strike out or amend pleadings. The Court has further observed that the competency of Virender Kumar Dahiya to file the written statement would be examined at the time of final decision of the case.

I have heard the learned counsel for the parties and with their able assistance gone through the record of the case.

In this case, plaintiff had filed a suit for declaration and mandatory injunction. Defendant-Board had filed an application under Order 7 Rule 11 CPC for rejection of the plaint. The application remained pending for quite some time and was decided on 30.04.2016. Thereafter, the written statement was filed.

The Court has rightly held that neither contempt proceedings can be initiated nor the defence of the defendant can be struck off on the ground that the written statement is signed by someone who was not the Secretary of the Board on the date it was signed. This dispute can only be seen at the time of final adjudication of the case. Therefore, CR No.177 of 2017 is dismissed.

In CR No.2603 of 2017, the plaintiff has challenged the order dated 30.04.2016 dismissing the application filed by the defendant for striking off the defence of the defendant on the ground that the written statement has not been filed within time as prescribed in the Code of Civil Procedure. The learned Court held that the application under Order 7 Rule 11 CPC was decided on 30.04.2016. The Court found that there was justifiable ground for granting adjournment for filing the written statement. Thereafter, written statement has also been filed on 24.05.2016.

In view of the above, I do not find any good reason to interfere with the order passed by the learned trial Court. Therefore, CR No. 2603 of 2017 is also dismissed.

17.08.2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No