

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

CR No.2435 of 2017.

Date of Decision: 05.04.2017.

Harmanjeet Singh Sandhu

....Petitioner.

VERSUS

Jagjeet Singh and others

....Respondents.

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR.

Present: Mr. Arvind Kashyap, Advocate for the petitioner.

SNEH PRASHAR, J.

The instant petition under Article 227 of the Constitution of India has been filed for quashing the order dated 21.02.2017 passed by learned Civil Judge (Senior Division), Chandigarh vide which the application filed by the petitioner-defendant No.1 for placing on record the detailed written statement was dismissed.

The submissions made Mr. Arvind Kashyap, learned counsel representing the petitioner have been heard.

Learned counsel for the petitioner argued that respondents No.1 to 3-plaintiffs pleaded that the petitioner-defendant No.1 had executed and got registered sale deed of 25% shares in favour of defendant No.2-respondent No.4 without their knowledge and consent. On notice of the suit, the petitioner-defendant No.1 appeared and engaged a counsel who without instructions from the petitioner made a statement in the Court adopting the

written statement filed by defendant No.2-respondent No.4 Gurbinder Pal Singh. The petitioner changed his counsel and moved an application seeking permission to file written statement as his case was not covered by the pleadings of defendant No.2-respondent No.4, but learned trial Court erroneously and illegally dismissed the application filed by the petitioner.

The facts relevant for considering the conduct of the petitioner and the prayer made by him are enumerated by learned trial court in Para No.4 of the impugned order which are as under:-

“Perusal of file shows that both the defendants had put in appearance in the present case and were represented by counsel Sh. N.K. Nanda, Advocate who made statement on 23.7.2014 adopting the written statement filed by defendant no.2 on behalf of defendant no.1. Thereafter, case remained pending for trial when defendants no.1 and 2 failed to appear before the Court and were proceeded against exparte on 4.8.2015. Subsequently, present counsel had put in appearance on behalf of defendant no.2 on 6.11.2015 and moved an application for setting aside exparte proceedings which was allowed vide order dated 21.1.2016 subject to payment of Rs.500/- as cost. However, costs were not tendered and on the very next date i.e. 15.3.2016, even the defendant no.2 preferred to be exparte. Thereafter, again on 3.5.2016, present counsel had put in appearance on behalf of both the defendants and moved another application for setting aside exparte proceedings which was allowed vide order dated 17.8.2016 and thereafter, case was fixed for evidence of the plaintiff.

After numerous adjournments when the case is fixed for evidence of plaintiff being last opportunity, instant application for filing of written statement on behalf of defendant no.1 has been filed by making bald allegation that earlier counsel representing defendant no.1 had no instructions from the defendant no.1 to adopt the written statement filed on behalf of defendant no.2. It is not shown even prima facie that any complaint against the earlier counsel for making such statement without instructions has been filed and even after setting aside of the ex parte proceedings against the defendants no.1 and 2, instant application has been filed after a long and inordinate delay. In the circumstances of the case, no ground to allow the instant application for filing of written statement on behalf of defendant no.1 at this stage is made out. Application being without merit is hereby dismissed. For evidence of plaintiff being last opportunity to come up on 1.3.2017.”

The above facts highlighted by learned trial court could not be denied by learned counsel for the petitioner. Indeed, the only ground, on which the petitioner filed application for filing a fresh written statement, was that his earlier counsel had made statement in the Court adopting the written statement filed by defendant No.2-respondent No.4 without instructions from him. Apart from the fact that no such complaint has been given by him to any authority against the earlier counsel, no reason could be explained for filing the instant application after an inordinate delay. It

a counsel (Advocate) is based and would also do no good to the institution if simply on such bald allegation, a party is allowed to undo the proceedings conducted on his/ her behalf by the counsel.

Thus, there being no illegality or perversity warranting interference in the order of learned trial Court, the petition is dismissed.

(SNEH PRASHAR)
JUDGE

05.04.2017.
jitender sharma

Whether speaking/ reasoned : **Yes/ No**

Whether Reportable : **Yes/ No**