

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

CR No.2614 of 2017

Date of decision: April 17, 2017

M/s. A.M. Traders

....Petitioner

Versus

M/s. Naturence Cosmetics Pvt. Ltd.

....Respondent

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Bhag Singh, Advocate
for the petitioner.

JASPAL SINGH, J.(ORAL)

By virtue of the instant petition, preferred under Article 227 of the Constitution of India, petitioner has sought quashing of the order dated 19th January, 2017 whereby the respondent/defendant has been allowed to file the amended written statement, inspite of the operation of the impugned order dated 28th October, 2015 vide which, the defence of the respondent/defendant was struck off on account of non-filing of the amended written statement.

It would be appropriate to mention here that earlier the trial Court vide its order dated 8th September, 2015 allowed an application of the petitioner/plaintiff for the amendment of the petition. Thereafter, the case was adjourned for different date(s) for filing an amended written statement. As amended written statement was not filed, the defence of the respondent/defendant was struck off vide order dated 28th October, 2015 which has become final as it has not been challenged by way of revision or any other proceeding. However, order dated 8th September, 2015 whereby an application for amendment of the plaint was allowed, was challenged by way of revision before this Court and while disposing the said revision

petition, this Court passed the following order:-

“I will maintain the order passed already but will allow for the defendant to bring an amendment to the written statement or an additional pleading contemplated under Order VIII, Rule 9 CPC and it would be possible for the defendant to take a plea that the plaintiff's claim is barred by limitation and if such contention is taken, an issue ought to be framed therefor and the Court will render adjudication on such objection as well.

The revision petition is disposed of on the above terms.”

In pursuance of the aforesaid order, the trial Court has rightly allowed the filing of the written statement. Thus, there is no illegality in the impugned order dated 19th of January, 2017 even if the order dated 28th of October, 2015 was operative especially in the circumstances that the said order was not pointed out by either of the parties to this Court when order dated 18th of January, 2016 was passed.

In view of the aforesaid discussion, this Court does not find any merit in the instant petition, therefore, it stand dismissed.

April 17, 2017
m. sharma

(JASPAL SINGH)
JUDGE

Whether Speaking/Reasoned	:	Yes/No
Whether Reportable	:	Yes/No