

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

**Civil Revision No.5497 of 2017**

**Date of Decision:09.11.2017**

Sushil Kumar Taank

V/S

.....Appellant

Ahish Ahuja

.....Respondent

**CORAM: HON'BLE MR. JUSTICE B.S.WALIA**

**Present:** Mr.Navneet Jindal, Advocate for the petitioner.

Mr.Surinder Sharma, Advocate for the respondent.

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**B.S.Walia, J. (Oral)**

1. Challenge is to order dated 12.05.2017 i.e. Annexure P-1 passed by the learned Additional Civil Judge(Sr. Div.) Chandigarh, whereby defence of the petitioner was struck off on account of non-filing of the written statement.

2. Learned counsel for the petitioner contended that only two effective opportunities had been granted for filing the written statement, period of 90 days for filing written statement had not expired, besides application had been moved under Order XI Rule 12 and 14 of the CPC for production of documents annexed with the suit to enable proper written statement to be filed but neither the documents were supplied nor the application was decided but the defence of the defendant-petitioner was struck off for non-filing of the written statement.

3. Mr. Surinder Sharma, learned counsel appearing on behalf of the respondent contended that two effective opportunities had already been granted to the defendant-petitioner and filing of the application under Order XI Rule 12 and 14 of the CPC was merely a dilatory tactic, therefore, further opportunity

for filing written statement is not warranted.

4. I have considered the submissions made on behalf of the parties. No doubt, two opportunities were granted to the petitioner for filing the written statement. However, the fact remains that an application had been moved by the defendant-petitioner under Order XI Rule 12 and 14 of the CPC for production of documents which were relied upon by the plaintiff-respondent and which had been attached with the plaint. In the application moved under Order XI Rule 12 and 14 of the CPC defendant-petitioner had taken up the categorical stand that in the absence of supply of documents relied upon by the plaintiff-respondent, it would not be possible for him to file an effective written statement. However, the said application has not been decided till date and the learned trial Court has struck off the defence of the defendant-petitioner solely on account of non-filing of the written statement on the ground that two effective opportunities had been granted.

5. Once application had been moved by the defendant-petitioner under Order XI Rule 12 and 14 of the CPC taking up the plea that it was not possible for him to file an effective written statement in the absence of supply of the documents relied upon and attached to the plaint, the learned trial Court ought to have decided the application. In any case, only two effective opportunities had been granted and the period of 90 days for filing of the written statement had also not expired.

6. In the circumstances, it would be just and proper if one opportunity is granted to the defendant-petitioner to file the written statement.

7. Learned counsel for the defendant-petitioner states that the defendant-petitioner would file the written statement at the earliest on supply of the documents sought for.

8. Learned counsel for the respondent states that the plaintiff-respondent would supply a copy of the documents sought for within two weeks.

9. Statement of the learned counsel for the parties is taken on record.

10. Accordingly, order dated 12.05.2017 i.e. Annexure P-1 passed by the Court of the learned Additional Civil Judge(Sr. Div.) Chandigarh, is set aside. Plaintiff-respondent would supply a copy of the documents sought for by the defendant-petitioner by way of application under Order XI Rule 12 and 14 of the CPC within two weeks from today and defendant-petitioner would file the written statement within a period of two weeks thereafter.

11. Revision petition stands allowed in the aforementioned terms.

**(B.S.WALIA)**  
**JUDGE**

09.11.2017  
Anjal

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| Whether speaking/reasoned? | Yes/No |
| Whether reportable?        | Yes/No |