

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

Civil Revision No. 5643 OF 2017

Date of decision: 24.08.2017

Hans Raj

.. Petitioner

vs.

Angrej Singh

.. Respondent

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Prashant Bansal, Advocate
for the petitioner.

Harinder Singh Sidhu, J.

The present revision has been filed impugning the order dated 19.07.2017 (Annexure P-6) whereby the application of the respondent under Order 37 Rule 3 of the Code of Civil Procedure for leave to defend the suit has been allowed and the delay in filing the application has been condoned.

The petitioner had instituted a suit against the respondent under Order 37 Rules 1 and 2 of the Code of Civil Procedure for recovery of ₹ 3,45,000/- alongwith interest @ 18% per annum from the date of execution of agreement dated 18.03.2016 till realization.

Learned trial Court issued summons in the prescribed form to the respondent to appear and the same were received by the wife of the respondent on 09.08.2016. The respondent appeared before learned trial Court on 20.08.2016 and the case was adjourned to 19.09.2016. On 19.09.2016 the respondent-defendant moved an application for grant of leave to defend the suit alongwith an application under Section 5 of the Limitation Act for condonation of delay of 20 days in filing the application. The petitioner contested the same by filing replies to the applications.

Learned trial Court vide the impugned order has allowed the applications.

Learned counsel for the petitioner contends that the application for leave to defend has not been filed by the respondent within 10 days, however, the same was filed after a delay of 41 days. He further contends that in the application for condonation of delay, no reason was given by the respondent as to why he did not appear within 10 days of service of notice. He further argued that in the application sufficient facts were not disclosed which would entitle the respondent to grant of leave to defend the suit. He also argued that no proof of illness of counsel and no writing to show that the amounts had been settled between the parties have been annexed with the application.

I have heard learned counsel for the petitioner and perused the record.

I find no merit in the submissions made by learned counsel for the petitioner. The respondent in his application for condonation of delay has specifically stated that he could not appear within the stipulated time due to illness of his counsel. In the application, for grant of leave to defend the suit, he stated that the accounts have been settled between the parties and nothing was due towards him. He has also stated that the settlement of accounts has been reduced to writing.

I find no illegality in the order passed by learned trial court. The revision petition is accordingly dismissed in limine.

24.08.2017
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No