

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

**CR No. 6436 of 2017(O&M)**

**Date of decision: 21.9.2017**

Chander Prakash Dhingra

....Petitioner

VERSUS

Munish Dhingra and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL**

Present: Mr. Sapan Dhir, Advocate for the petitioner.

**REKHA MITTAL, J.(Oral)**

The present petition directs challenge against order dated 03.03.2017 (Annexure P-4) passed by the Civil Judge (Junior Division), Faridabad whereby defence of the petitioner/defendant No.3 has been struck off for want of filing of written statement and the application for recalling order dated 03.03.2017 has been dismissed with the observations that the Court has no jurisdiction to entertain the application.

Counsel for the petitioner has submitted that though the written statement had already been prepared for filing on 03.03.2017 but since counsel for the petitioner was busy before some other Court, the same could not be filed on the date fixed. It is further submitted that since the time defence of the petitioner has been struck off vide order dated 03.03.2017, there is no progress in the proceedings as the application for grant of interim injunction is pending consideration for 25.09.2017. It is prayed that the petitioner may be allowed one opportunity to file the written statement, may be, subject to payment of costs to compensate the respondent/plaintiff.

I have heard counsel for the petitioner, perused the paper-book particularly the various annexures appended with the petition.

Perusal of order dated 03.03.2017 would indicate that on the previous date, case was adjourned for filing of written statement subject to payment of costs of Rs.1100/-. The petitioner neither paid the costs nor filed the written statement on 03.03.2017. The petitioner filed an application dated 01.04.2017 for review of the order dated 03.03.2017 but the same came to be dismissed by the trial Court with the observations that Court has no jurisdiction to entertain the present application and the case was adjourned to 25.09.2017. Taking into consideration conduct of the petitioner in filing an application for review immediately after the order dated 03.03.2017 was passed coupled with serious consequence likely to ensue in case the petitioner is not permitted to file the written statement and defend the proceedings, the petitioner is allowed one opportunity to file the written statement subject, however, to the following conditions:-

1. The petitioner shall file the written statement on or before 25.09.2017 but a copy thereof shall be supplied to counsel for the respondent/plaintiff in advance i.e. on 23.09.2017.
2. The petitioner shall prepare a demand draft of Rs.10,000/- in the name of the respondent/plaintiff towards costs.

Failure of the petitioner to comply with any of the aforesaid conditions would entail dismissal of the petition.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondent in order to save him from unnecessary expense and inconvenience. However, the respondent

would be at liberty to file an appropriate application in case he has any grievance to express.

**SEPTEMBER 21, 2017**

‘D. Gulati’

**(REKHA MITTAL)**

**JUDGE**

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | yes/no |
| Whether reportable        | : | yes/no |