

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

278

CR-8398-2016

Date of Decision:27.04.2017

Lakhvir Singh and another

.....Petitioners

Versus

Bhai Jagta Ji Model School

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

**Present: Mr.Munish Garg, Advocate,
for the petitioners.**

None for the respondent.

RAMESHWAR SINGH MALIK, J.(Oral)

Feeling aggrieved against the impugned order dated 17.11.2016 (Annexure P-1) passed by the learned trial Court, whereby written statement filed on behalf of defendant Nos.1 and 2 was not accepted, having been filed beyond 90 days, defendant Nos.1 and 2 have approached this Court by way of present revision petition, filed under Article 227 of the Constitution of India.

Notice of motion was issued.

Service was complete. Sh.Siddharth Gupta, Advocate, appearing on behalf of respondent-plaintiff on 08.02.2017, sought time to get instructions before addressing his arguments. On his request, case was adjourned to 22.03.2017. On 22.03.2017, none appeared on behalf of the respondent. Similar is the position today. Neither anybody has come present on behalf of the respondent, nor any request for pass over has been

made.

Heard learned counsel for the petitioners.

A bare perusal of the impugned order dated 17.11.2016 (Annexure P-1) passed by the learned trial Court would show that the learned trial Court failed to appreciate the stage of the suit, at the time of passing the impugned order. Pleadings of the parties were not complete. Defendant No.3 has moved an application under Order 7 Rule 11 of the Code of Civil Procedure. Issues were yet to be framed. No doubt there was a lapse on the part of defendant Nos.1 and 2-petitioners, in filing their written statement late. However, once the written statement had been filed by the petitioners, the same ought to have been accepted by the learned trial Court instead of rejecting the same. It is so said because by filing written statement late by defendant Nos.1 and 2, no prejudice was likely to be caused to the plaintiff-respondent. Having said that, this Court feels no hesitation to conclude that the learned trial Court exceeded its jurisdiction, while passing the impugned order and the same cannot be sustained.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Courts of law must make an endeavour to grant sufficient opportunity to both the parties to the litigation to put their best case before the Court. Nobody should be forced to go home with the grievance that reasonable opportunity was not granted. While following the abovesaid principle of law, the learned Court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned Court will do complete and substantial justice between the parties. However, in the present case, the learned trial Court failed to follow the abovesaid principle of law, while passing the impugned

order and the same cannot be sustained, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, the same cannot be sustained. Accordingly, the impugned order is hereby set aside. Written statement filed by the defendant Nos.1 and 2-petitioners herein, shall be treated to have been filed, in accordance with law.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

April 27, 2017
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No