

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.1424 of 2018

Date of Decision.01.03.2018

Sachin Goyal

.....Petitioner

Vs

Shri Parmod Kumar Jain and others

.....Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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

-:-

AMIT RAWAL J.(ORAL)

The present revision has been directed by invoking the provisions of Article 227 of the Constitution of India for directions to the Civil Judge (Senior Division) Chandigarh to expedite the disposal of the ad interim application filed along with the suit as despite availment of the opportunities, defendants neither filed written statement in the suit nor reply to the application filed under Order 39 Rule 1 and 2 CPC, which is reflected from the zimni orders (Annexure P-7).

Mr. Sailender Singh, learned counsel appearing on behalf of the petitioner submits that the suit is for seeking specific performance of agreement to sell dated 17.10.2014, which was extended through Memorandum of Understanding dated 8.6.2017 executed between the plaintiff and the defendants for sale of SCO No.161, Sector 24-D, Chandigarh with alternative decree of refund of ₹3 crores along with interest @18% per annum from the date of payment till realization. The interim stay had been for restraining the defendants from creating third party rights or alienating the property but voluntarily the defendants are not

application will be defeated.

I have heard learned counsel for the petitioner and appraised the paper book. The zimini orders from 11.01.2018 to 22.02.2018 are extracted herein below:-

“Present: Sh. N.K. Nanda, counsel for the plaintiff.

Fresh civil suit received by way of entrustment. It be checked and registered. Along with suit, counsel for the plaintiff moved an application under Order 39 Rule 1 and 2 read with Section 151 of CPC. Let summons to the defendants are ordered to be issued for 18.01.2018 on filing of Speed Post Cover under the Scheme of BNPL. Plaintiff is at liberty to take dasti summons as envisaged under Order 5 Rule 9-A of CPC.

Sd/-

*(Baljinder Pal Singh)
Civil Judge (Sr. Divn)*

Date of order:11.01.2018

Chandigarh (UID No.PB-0185)

Present: Sh. N.K. Nanda, counsel for the plaintiff.

Sh. Vivek Kathuria, counsel for defendant No.1.

Sh. Arun Dogra, counsel for defendant no.2 and 3.

Sh. Vivek Kathuria advocate filed power of attorney on behalf of defendant No.1 and whereas Sh. Arun Dogra advocate file memo of appearance on behalf of defendants No.2 and 3. Both are taken on record. Now, for filing of written statement by the defendants No.1 to 3 to come up on 07.02.2018. Defendants are at liberty file the same on or before the date fixed.

Sd/-

*(Baljinder Pal Singh)
Civil Judge (Sr. Divn)*

Date of order:18.01.2018

Chandigarh (UID No.PB-0185)

Present: Sh. N.K. Nanda, counsel for the plaintiff.

Sh. Vivek Kathuria, counsel for defendant No.1.

Sh. Arun Dogra, counsel for defendant no.2 and 3.

Written statement as well as reply to the application under Order 39 Rule 1 and 2 CPC not filed by the defendants No.1 to 3. Adjournment sought which is considered and allowed. Now for filing of same to come up on 09.02.2018.

Sd/-

(Baljinder Pal Singh)

Civil Judge (Sr. Divn)

Date of order:07.02.2018

Chandigarh (UID No.PB-0185)

Present: Sh. N.K. Nanda, counsel for the plaintiff.

Sh. Vivek Kathuria, counsel for defendant No.1.

Sh. Arun Dogra, counsel for defendant no.2 and 3.

Written statement as well as reply to the application under Order 39 Rule 1 and 2 CPC not filed by the defendants No.1 to 3. Adjournment sought which is considered and allowed. Now for filing of same to come up on 22.02.2018.

Sd/-

(Baljinder Pal Singh)

Civil Judge (Sr. Divn)

Date of order:09.02.2018

Chandigarh (UID No.PB-0185)

Present: Sh. N.K. Nanda, counsel for the plaintiff.

Sh. Vivek Kathuria, counsel for defendant No.1.

Sh. Arun Dogra, counsel for defendant no.2 and 3.

Written statement as well as reply to the application under Order 39 Rule 1 and 2 CPC not filed by the defendants No.1 to 3. Adjournment sought which is considered

and allowed. Now for filing of same to come up on 08.03.2018.

*Sd/-
(Baljinder Pal Singh)
Civil Judge (Sr. Divn)*

Date of order: 22.02.2018 Chandigarh (UID No.PB-0185) ”

On perusal of the zimini orders (Annexure P-7), it is evident that despite having put in appearance by defendant No.1 to 3 and availing three adjournments, neither the written statement nor reply to the stay application has been filed. Courts should be vigilant in such circumstances while granting adjournments, which should have been on certain terms and conditions but did not operate against the provisions of Order 8 Rule 1 CPC.

Be that as it may. Without going into the merits and demerits of the matter, I deem it appropriate to dispose of the revision petition by issuing direction to the trial Court to call upon the respondents-defendants to decide the application under Order 39 Rule 1 and 2 CPC within a period of 30 days from the date of receipt of certified copy of this order, irrespective of the fact whether defendants file the reply on the next adjourned date or not.

(AMIT RAWAL)
JUDGE

March 01, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No