

In the High Court of Punjab and Haryana at Chandigarh

.....

Civil Misc. No.9132-CII of 2018

and

Civil Revision No.1615 of 2018

.....

Date of decision:10.5.2018

Balwinder Singh

.....Petitioner

v.

Jagroop Singh

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Naresh Gopal Sharma, Advocate for the petitioner.

.....

Inderjit Singh, J.

Civil Misc. No.9132-CII of 2018:

This application filed under Section 151 CPC for placing on record the interim orders (Annexure-P.6) (Colly.) is allowed and the interim orders (Annexure-P.6) (Colly.) is taken on record subject to just exceptions.

Civil Revision No.1615 of 2018:

This civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 19.1.2017 (Annexure-P.1) passed by the learned Additional Civil Judge (Senior Division), Ludhiana, whereby application filed to recall the order dated 12.7.2016 has been dismissed.

I have heard learned counsel for the petitioner and have gone

through the record.

From the record, I find that an application had been filed by the present petitioner/defendant to recall the order dated 12.7.2016 and to allow him to file written statement and reply on the ground that the case was adjourned to 7.7.2016 from 5.7.2016 for filing the written statement. On 7.7.2016, it was declared holiday and on the next date 8.7.2016 the case was not listed in cause list. On that day, the counsel for the defendant moved an application to file the written statement, but the Court told that the present case was fixed for 12.7.2016 and on that day, the defence of defendant had been struck off. There was no such date noted as 12.7.2016 with the counsel of the defendant as well as the defendant, therefore, they have no knowledge regarding the alleged date and the order dated 12.7.2016 be recalled and the defendant be allowed to file the written statement.

On the other hand, the plaintiff before the lower Court filed the reply and contested the application on the ground that the application is not maintainable and the defendant did not appear before the Court intentionally and knowingly.

The learned Additional Civil Judge (Senior Division), Ludhiana, held that the written statement was not filed and due to which the defence of the defendant was struck off vide order dated 12.7.2016. The plea raised by defendant that the file was not traced on 8.7.2016 and due to that reason he could not file the written statement was not believed. There was nothing on the file to show that the case was adjourned to 7.7.2016 for filing the written statement. This order has been passed by the learned

Additional Civil Judge (Senior Division), Ludhiana, on 19.1.2017 (Annexure-P.1). After passing of this order on 19.1.2017, the present petitioner/defendant did not file any revision etc. within a reasonable period. Now this revision petition has been filed on 1.3.2018 and there is no satisfactory explanation of any type as to why revision petition was not filed within a reasonable time after the passing of the order dated 19.1.2017 till 1.3.2018. The interim orders have been placed on record which show that the suit was filed on 11.2.2016 and the defendant appeared through counsel on 17.2.2016. Since then reasonable opportunities were given to file written statement for 9.3.2016, 30.3.2016 and this case was adjourned from time to time for 3.5.2016, 5.7.2016 and 6.7.2017 and then to 12.7.2016. Till then no written statement was filed and period of 90 days had already lapsed. This application to recall the order has been filed which has been dismissed vide the impugned order dated 19.1.2017.

A perusal of the interim order passed by the lower Court shows that no reasonable explanation has been shown as to why the written statement was not filed within 90 days and further when the application for recalling the order has already been dismissed on 19.1.2017 as to why he has not filed the petition immediately. This petition has been filed after more than two years of the appearance of the defendant before the lower Court.

Keeping in view the facts and circumstances of the present case and conduct of the present petitioner/defendant, I do not find any illegality in the impugned order passed by the learned lower Court.

[4]

Therefore, finding no merit in the present civil revision petition, the same is dismissed.

As the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

May 10, 2018.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No