

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

116

CR-2636-2018 (O&M)

Date of Decision:25.04.2018

Tarsem Lal

.....Petitioner

Versus

Kanchan Rani and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. R.S. Bajaj, Advocate,
for the petitioner.**

HARI PAL VERMA, J.(Oral)

Petitioner has filed the present revision petition impugning the order dated 16.01.2018 (Annexure P-6) passed by learned Civil Judge (Jr. Divn.), Jalandhar, whereby the learned trial court has struck off the defence of the petitioner-defendant No.1 for not filing the written statement within the statutory period of 30 days from the date of appearance.

Briefly stated, respondent Nos.1 and 2/plaintiffs filed a suit for declaration to the effect that they are owners of the property as detailed in the plaint and therefore, entitled for possession of the property along with other prayer for permanent injunction and recovery of mesne profit as well. In the suit, the defendants have been served, but the respondent Nos.1 and 2 have filed an application (Annexure P-2) for striking off the defence of petitioner-defendant No.1 on the ground that defendant No.1 has failed to file written statement within the statutory period of 30 days. The petitioner-

defendant No.1 has filed reply to the said application and has pleaded that the suit is at initial stage for service of other defendants, who have otherwise joined hands with the plaintiffs to usurp the property of defendant No.1. But still in order to avoid the technicalities, defendant No.1 is filing written statement. Thus, along with the reply to the application seeking striking off defence, defendant No.1 has filed the written statement as well. The written statement so filed with the application has been annexed as Annexure P-4 with the present revision petition.

Learned counsel for the petitioner states that it was never the intention of the petitioner-defendant No.1 to delay the proceedings in any manner. The petitioner was required to file written statement after considering all possible pleas, more particularly when the other defendants have colluded with the plaintiffs. But still while filing reply to the application whereby the plaintiffs had sought striking off the defence, the petitioner has filed the written statement. However, instead of taking the written statement on record, the trial court has struck off the defence.

I have heard the learned counsel for the petitioner and perused the record attached with the revision petition.

It is noticed that along with the reply, petitioner-defendant No.1 has filed the written statement as well which is otherwise on record of the case. Therefore, it cannot be attributed that the petitioner-defendant No.1 wanted to delay the proceedings as he has already filed the written statement alongwith reply to the application filed for striking off the defence in the case.

Accordingly, the present revision petition is allowed and the order dated 16.01.2018 (Annexure P-6) is set aside. The written statement

so filed by the petitioner-defendant No.1 be allowed to be taken on record, subject to all just exceptions.

The present revision petition is decided at this stage without issuing any notice, as it would further cause delay in the case. However, in case respondent No.1 and 2-plaintiffs find that they are still aggrieved by the present order, they would be at liberty to file an application for recalling this order.

April 25, 2018

seema

(HARI PAL VERMA)

JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No