

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

CR No.3323 of 2015 (O&M)

Date of decision : February 01, 2018

Karam Singh (deceased) through LR **Petitioner**

Versus

Dalbir Singh @ Beera **Respondent**

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Amit Arora, Advocate for the petitioner.

Mr. Yashpal Thakur, Advocate for
Mr. Gurcharan Singh, Advocate for the respondent.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
2. To be referred to the Reporter or not.
3. Whether the judgment should be reported in the digest ?

KULDIP SINGH J. (ORAL)

Impugned in the present revision petition is the order dated 27.02.2015 passed by learned Addl. Civil Judge (Sr. Divn.), Khadoor Sahib, District Tarn Taran, vide which in a suit filed under Order XXXVII, Rule 2 CPC, leave to defend was granted and defendant was allowed to file written statement.

I have heard learned counsel for the parties and have also carefully gone through the case file.

Admittedly, in this case, the suit was filed under Order XXXVII, Rule 2 CPC. The defendant was served summons on 21.08.2014 and on 22.08.2014, he marked his presence in the present case. Thereafter, the plaintiff was required to serve the summons for judgment in Form- 4A on defendant as required under Order XXXVII, rule 3(4) CPC. No such summons for judgment were served within the requisite period. It was only

thereafter that within 10 days of service of such summons, the defendant was required to apply for leave to defend. Since the plaintiff failed to comply with the provisions under Order XXXVII, Rule 3(4)CPC, it is deemed that the suit is to be tried as ordinary suit. Therefore, even if leave to defend was applied for and was granted, that would become meaningless as the defendant had got the right on account of failure of the plaintiff to serve summons for judgment under Order XXXVII, Rule 3(4) CPC to file the written statement. Therefore, for these reasons, I do not find any illegality in allowing the defendant to file written statement, holding that no leave to defend was required in this case.

As such, the present revision petition is dismissed.

(KULDIP SINGH)
JUDGE

February 01, 2018

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Whether speaking / reasoned Yes

Whether Reportable: No