

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-4397-2018(O&M)

Date of decision :11.09.2018

Jaswinder Singh and others

... Petitioners

Versus

Saudagar Singh and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Jitender Singh Dadwal, Advocate
for the petitioners.

AMOL RATTAN SINGH, J.(ORAL)

CM-16987-CII-2018

The application is allowed subject to just exceptions and the interim orders passed by the trial Court between 04.05.2015 to 17.07.2018 are taken on record with the accompanying petition, as Annexure P-2 collectively.

CR-4397-2018

By this petition, the petitioner challenges the order of the learned Civil Judge (Jr.Div.), Ludhiana, dated 06.09.2017, by which the defence of defendants no.2, 3, 5, 7, 8, 9, 14, 15, 16, 17 and 18 has been struck off.

Though it was struck off on that date with the Court holding that the stipulated period as provided in the CPC had already elapsed and as a matter of fact Order 8 Rule 1 CPC as applicable to the States of Punjab and Haryana and the U.T. of Chandigarh does not stipulate any specific period within which written statement has to be filed, however, even so,

The said rule is reproduced hereinunder:-

PUNJAB, HARYANA and CHANDIGARH.- (1) The defendant may, if so required by the Court, shall at or before the first hearing or within such time as the Court may permit, present a written statement of his defence, in duplicate, one for the Court and the other for the plaintiff; and with such written statement, or if there is no written statement, at the first hearing, shall produce in Court all documents in his possession or power on which he bases his defence or any claim for set off.

(2) Where he relies on any other documents as evidence in support of his defence or claim for set off he shall enter such documents in a list to be added or annexed to the written statement or where there is no written statement, to be presented at the first hearing. If no such list is so annexed or presented, the defendant shall be allowed a further period of ten days to file this list of documents.

(3) A document which ought to be entered in the list referred to in sub-rule (2), but which has not been so entered, shall not, without the leave of the Court, be received in evidence on the defendant's behalf at the hearing of the suit.

(4) Nothing in this rule shall apply to documents produced for the cross-examination of plaintiffs witnesses or handed to a witness merely to refresh his memory. (High Court Noti.No.191-R/XI-t-8, dt.19-6-1939 and High Court Noti.No.2Q0-Central/X(-Y-8, dt.1-9-1953).”

It is seen that after service had been effected upon all the defendants in the suit, which seems obvious from the order dated 29.01.2016, sufficient time was granted to the aforesaid defendants to file

their written statements, which was not done even till 06.09.2017.

Even so, this Court may still have allowed this petition, thereby granting permission to the said defendants to file their written statements on payment of certain costs; however it is seen that even after the impugned order was passed on 27.09.2017, the petitioners waited till 16.05.2018 to file this petition, i.e. about 8 ½ months after the order was passed.

In the meanwhile all the plaintiffs' witnesses had been examined and the plaintiffs' evidence closed on March 30, 2018.

Consequently, that being so, allowing written statements to be filed at this stage would mean reopening the trial all over again and in fact, the intention behind filing this petition at a belated stage, may only be to cause a delay in the trial.

In any case, looking at the stage of the trial, I see no reason to entertain this petition and consequently it is dismissed *in limine*.

(AMOL RATTAN SINGH)
JUDGE

September 11, 2018.
D.K.

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No