

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 4710 of 2018

Date of Decision: 20.09.2018

Mrs. Rajni

.....Petitioner

Vs.

Sanjeev Arya

.....Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Rahul Jaswal, Advocate,
for the petitioner.

Mr. Balraj Singh Rathee, Advocate,
for the respondent.

AMOL RATTAN SINGH, J. (ORAL)

Though upon notice issued in this petition, learned counsel for the respondent has appeared and again reiterated that in terms of Order V Rule 1 of the CPC, the defendant after summons issued in the suit must appear and file the written statement of his defence within 30 days from the service of the defendant, however, obviously he could not refute the amendment made to Order VIII Rule 1 of the CPC in its applicability to the States of Punjab, Haryana and the Union Territory, Chandigarh, which reads as follows:-

“Punjab, Haryana and Chandigarh--(1) The defendant may, and 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 often days to file this list of documents.

(3) A document which ought to be entered in the list referred to in sub-clause (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 cross-examination of plaintiffs witness or handed to a witness merely to refresh his memory.”

Thus, though there is no statutory limit of 90 days for filing a written statement as regards the State of Haryana, the written statement obviously has to be filed within a reasonable period; but as has been noticed in the order dated 26.07.2018, after notice was issued in the suit of the respondent-plaintiff on 22.11.2017, notice was actually served upon the petitioner-defendant on 22.12.2017, with the next date of hearing, as per the order dated 22.11.2017 itself, being 20.03.2018. Therefore, the first date that the petitioner could have put in appearance before the trial Court was March 20, 2018. Hence, thereafter, only one date having gone by, i.e. 06.07.2018, on which date the impugned order was passed, the petition is allowed and the impugned order is set aside, with the petitioner however directed to file her written statement within a period of 10 days positively.

In the meanwhile, the trial Court would adjourn the matter beyond 10 days from today.

Since the date of hearing before the trial Court is stated to be today itself, a copy of this order be given to learned counsel for the petitioner under the signatures of the Bench Secretary of this Court.

September 20, 2018
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(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes