

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 4993 of 2018

Date of decision : August 23, 2018

Jaspal Singh and others

..... Petitioners

Versus

Parvind Kaur and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Naveen Sharma , Advocate
for the petitioners.

Mr. Parvinder Singh, Advocate
for the respondents.

AMOL RATTAN SINGH, J (Oral).

Pursuant to the notice issued vide order dated August 6, 2018, learned counsel appears for the respondents, i.e. plaintiffs in the suit out of which this revision petition arises, and submits that the impugned order of the trial court dated 16.11.2017, by which defence of the petitioners-defendants Nos. 1 to 3 has been struck off, is not erroneous. He further submits that more than 30 days had expired after petitioners-defendants No.1 and 2 had put in an appearance in the trial court after notice was issued to them (i.e. defendants no.1 and 2 had put in appearance on 5.8.2017 and defendant no.3 had put in appearance on 29.9.2017).

However, as seen, the rigidity of the 30 day period stipulated in Rule 1 of Order 8 of the CPC is not applicable to the States of Punjab, Haryana and the Union Territory of Chandigarh, with the said rule reading as follows by virtue of an amendment made thereto:-

“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 of ten 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 plaintiff's 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).”

Though no statutory period is prescribed in the aforesaid provision for the State of Punjab, however, very obviously, there has to be only a reasonable period that the Court can grant within which the written statement must be filed.

It is seen from the orders of the trial court reproduced in the petition, that a last opportunity had been granted on 25.10.2017 to the petitioners-defendants to file their replies by 16.11.2017, i.e. three months

appearance before that Court.

That being so, this petition is allowed, with the impugned order set aside and the petitioners-defendants given one opportunity to file their written statement, i.e. by September 4, 2018, which is stated to be the next date fixed for hearing of the case before that Court. However, the additional opportunity granted shall be subject to payment of ₹10,000/-as costs to the respondents-plaintiffs.

(AMOL RATTAN SINGH)
JUDGE

August 23, 2018
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No