

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.5622 of 2017 (O&M)
Date of Order:22.03.2018

Baldev Singh

..Petitioner

Versus

Sai Apartments & Infrastructure and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Parminder Singh, Advocate,
for the petitioner.

ANIL KSHETARPAL, J(Oral)

Notice in the revision petition was issued. As per photocopy of the summons produced, respondent no.1, the plaintiff, has been served through counsel. Hence, service is complete.

Defendant-petitioner is in revision petition against the order passed by the learned trial court striking off the defence of the defendants on the ground that the written statement has not been filed.

A reading of the order shows that initially the trial court had fixed the case for consideration on the application under Order 7 Rule 11 of the Code of Civil Procedure, however, later on the Court realised that the application has already been decided hence the Court after noticing that written statement has not been filed struck off the defence of the defendants.

Learned counsel for the petitioner has submitted that once the case was fixed for decision on an application filed under Order 7 rule 11 CPC, the court ought to have granted one opportunity to the defendants to file their written statement. He has further submitted that when the case was

only fixed for consideration on the application under Order 7 Rule 11 CPC, the court could not pass the order of striking off the defence. Learned counsel for the petitioner has further undertaken to file the written statement within 10 days from the date of receipt of a certified copy of this order.

Keeping in view the fact that the procedures are hand made for justice and the period prescribed for filing the written statement in the code of civil procedure is not mandatory, this Court is of the considered opinion that the defendants deserve one opportunity to file their written statement.

In view thereof, the order under challenge is set aside. The petitioner-defendant no.1 would be granted one opportunity to file the written statement.

Counsel for the petitioner shall remain bound by his statement. If no written statement is file within ten days from the date of receipt of a certified copy of this order, the revision petition would be deemed to have been dismissed.

The revision petition is allowed.

March 22, 2018
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No