

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

C.R. No.6224 of 2018

Date of Decision: 19.09.2018

Vijay Kumar and Anr.

....Petitioners

Versus

Oriental Bank of Commerce and Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE B.S.WALIA

Present: Mr. Ram Bilas Gupta, Advocate for the appellants.

B.S.WALIA, J (ORAL)

[1] Notice of motion.

[2] Sh. Sandeep Kotla, Advocate, who is present in Court accepts notice on behalf of respondent No.1-Bank.

[3] Learned counsel for the appellants contends that in fact the petitioners had paid a sum of Rs.4000/- to the counsel representing them before the learned trial Court and had also handed over documents for filing of written statement and were assured that the needful would be done, but neither the costs were paid nor was the written statement filed, therefore in the circumstances the petitioners are entitled to seek modification/recalling of the order as well as extension of time under Section 151 read with Section 148 CPC in view of decision of Hon'ble the Supreme Court in

Saleem Advocate Bar Association Tamilnadu vs. Union of India AIR

2005 Supreme Court 3353 as well as decision of this Court in **Municipal Committee Kharkhoda vs. Bhim Singh 1987 (1) RCR (Rent) 442**. He further states that the petitioners are in the process of taking appropriate action against the counsel representing them, who misled them before the learned trial Court.

[4] Apparently the circumstances on account of which reply was not filed and costs were not paid on the date fixed were not brought to the notice of the court below by moving appropriate application and satisfying the said Court, instead the petitioner straightway invoked the jurisdiction of this Court for recalling of the impugned order and for extension of time on the ground that they were prevented by sufficient cause from doing the needful on the date of passing of the impugned order.

[5] Having considered the submissions of learned counsel for the petitioner, I do not deem it appropriate to issue notice to the respondents as the same would not only delay the final disposal of the instant petition but also the civil suit pending before the learned Civil Judge (Jr. Division), Rohtak.

[6] Accordingly, in the light of the position as noted above and subject to deposit of costs of Rs.5000/- with the High Court Legal Services Committee, revision petition is disposed of by relegating the petitioners to avail appropriate remedy before the court of the learned Civil Judge (Jr. Division), Rohtak within a period of one week from date of receipt of certified copy of this order. In case, any such application is moved, the learned Civil Judge (Jr. Division), Rohtak will consider and decide the same in accordance with law as expeditiously as possible, preferably by the next date of hearing i.e 09.10.2018 and till such time that decision is taken on the

application, further proceedings before the learned Civil Judge (Jr. Division), Rohtak shall remain in abeyance.

Petition disposed of with aforementioned direction.

September 19, 2018
manoj

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable : Yes/No