

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 8421 of 2018

Date of Decision: 11.12.2018

Ashavjit Singh

.....Petitioner

Versus

Mahesh Kumar

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Inderjeet Singh Chawla, Advocate
for the petitioner.

AVNEESH JHINGAN, J.(oral)

Aggrieved of the order dated 13.9.2018 passed by Civil Judge (Junior Division), Ludhiana, striking of the defence for filing written statement by the petitioner/defendant (hereinafter referred to as 'petitioner'), the present civil revision petition has been filed.

The facts in brief are that the respondent-plaintiff (hereinafter referred to as 'respondent') filed a civil suit for mandatory injunction directing the petitioner to return the blank cheque of the respondent. Notice was issued in the suit. Summons were received by the petitioner and he appeared on 16.5.2018. The case was adjourned to 18.7.2018 for filing of the written statement. On 18.7.2018 a request was made by learned counsel for the petitioner for granting more time to file written statement and the case was adjourned to 13.9.2018. On 13.9.2018 an application under Order VII Rule 11 read with Section 151 of the Code of Civil Procedure, 1908 (CPC) and Section 41-(d) of the Specific Relief Act, 1963 for rejection of the plaint was filed. On the said date, as no written statement was filed, the defence was struck off for

filing the written statement

Aggrieved of the order, the present petition has been filed.

Learned counsel for the petitioner states that the written statement is ready and will be filed before the next date fixed in the civil suit. He argues that the written statement could not be filed as the counsel before the trial Court advised that the application filed under Order VII Rule 11 of CPC would be decided first and under that impression written statement was not filed.

At this stage, it is not considered appropriate to issue notice to the respondent as it would delay the matter.

Keeping in view the facts and circumstances of the case that the petitioner was under impression that the application under Order VII Rule 11 of CPC shall be decided first, in the interest of justice, one opportunity is provided to the petitioner to file written statement before the next date of hearing fixed before the learned trial Court. The order dated 13.9.2018 striking of the defence is set aside subject to petitioner's paying Rs.10,000/- as costs to the respondent.

It is, however, clarified that in case respondent has any grievance with the order passed in this civil revision, he would be at liberty to revive the same by moving an application.

11.12.2018

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No