

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

252

CR No.3303 of 2018

Date of Decision:29.4.2019

GOBIND RAM

.....Petitioner

Versus

SHRI RADHAKRISHAN MANDIR AND OTHERS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr.Sushil Bhardwaj, Advocate
for the petitioner.

Mr.Aditya Yadav, Advocate
for respondent No.1.

Mr.Kuldeep Attri, Advocate
for respondents No.2 to 8.

Mr.Satinder Singh, Advocate
for respondents No.9 and 10.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has filed this revision petition challenging order dated 27.3.2018 passed by the Additional Civil Judge (Sr.Divn.), Kanina, whereby last opportunity was granted to the defendant-petitioner to file written statement.

Perusal of the record would show that on earlier occasion, an amount of ₹ 200/- was imposed as cost(s). The

same was ordered to remain intact vide the impugned order. Since the written statement and reply to the application for ad interim injunction were not filed by the defendant, therefore, the case was adjourned for filing the same subject to last opportunity. Reply to the application under Order 7 Rule 11 CPC was also directed to be filed on the adjourned date. The grievance of the petitioner is only to the extent that without deciding the application under Order 7 Rule 11 CPC, the petitioner cannot be compelled to file his written statement.

It is a settled principal of law that at the stage of consideration of an application under Order 7 Rule 11 CPC, only averments made in the plaint are to be seen. The stand taken in the written statement is wholly inconsequential.

Since the rigor of imposition of cost(s) on earlier occasion was diluted in the impugned order itself and the defence of the petitioner was not struck off for want of amount of cost(s), therefore, I deem it appropriate to accept this revision petition by setting aside the impugned order. Trial Court is directed to decide the application under Order 7 Rule 11 CPC at the earliest without insisting upon filing of written statement by the petitioner before such date. It would be appreciated if the application under Order 7 Rule 11 CPC is decided by the trial Court within two months from the date of receipt of certified copy

of this order.

Petition stands disposed of accordingly.

April 29, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No