

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

247

CR No.4972 of 2018

Date of Decision: May 06, 2019.

Balwant Singh

.....Petitioner(s)

versus

Harjinder Singh

.....Respondent(s)

CORAM: HON'BLE MR.JUSTICE RAJ MOHAN SINGH

Present: None for the petitioner.

Dr. Rau P.S. Girwar, Advocate for the respondent.

RAJ MOHAN SINGH, J. (Oral)

The petitioner has challenged the order dated 11.05.2018 passed by Civil Judge (Jr. Division), Bathinda vide which the defendant/petitioner was precluded from filing his written statement.

2. Notice of motion was issued on the basis of **Kailash Vs. Nanhku and others, 2005(2) RCR (Civil) 379** and **Sandeep Thapar Vs. SME Technologies Private Limited, 2014(1) RCR(Civil) 729.**

3. On appearance, learned counsel for the respondent pointed out that defence of defendant/petitioner was struck off in a summary suit under Order 37 CPC for want of written statement. The summary suit was for recovery of Rs.5 lacs with interest *pendente lite* and future interest from the date of filing of the suit till the final

realisation of the decretal amount. In a summary suit for recovery under Order 37 CPC, a specific provision has been made for filing the written statement and the delay cannot be condoned on the principle of **Kailash Vs. Nanhku's case (Supra)**. Even the Apex Court in **M/s SED Private Limited Vs. KS Infrastructure and others, 2019 RCR (Civil) 249** held that the Court cannot grant extension beyond 120 days from the date of service of summons even in ordinary suit. Since the suit was filed under Order 37 CPC, specific provision has been made for filing of written statement in a time bound manner. No such application has been filed by the defendant/petitioner to defend the suit under Order 37 Rule 7 CPC for seeking leave of the Court after showing sufficient cause for condonation of delay in entering appearance. The petitioner has not filed any application despite availing number of opportunities after receiving summon on 08.08.2017. After expiry of the period, defence was struck off vide order dated 11.5.2018.

4. The case is not covered under specific provision of Order 37 CPC, therefore, I deem it appropriate not to interfere in this Revision Petition.

5. The Revision petition is accordingly dismissed.

May 06, 2019

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[RAJ MOHAN SINGH]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No