

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.6477 of 2018(O&M)
Date of Decision: 01.04.2019

Pawan Kumar

.....Petitioner

Versus

Mithlesh Chaudhary and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Amit Singla, Advocate
for the petitioner.

Mr. Sanjay Mittal, Advocate
for respondents No.2 to 8.

RAJ MOHAN SINGH, J.(Oral)

[1]. Petitioner has preferred this revision petition against the order dated 15.09.2018 passed by Additional Civil Judge (Senior Division), Hisar vide which the petitioner was denied to file reply to the application under Order 11 Rule 14 CPC.

[2]. A suit for declaration was filed by Mrs. Mithlesh Chaudhary who happens to be wife of the petitioner. Petitioner was arrayed as defendant No.8. Sale deed dated 08.07.2011 executed by defendant No.8/petitioner in favour of defendants No.1 to 7/respondents No.2 to 8 was challenged in the suit

being fraudulent.

[3]. Defence of the petitioner/defendant No.8 was struck off for want of written statement. Vide order dated 06.08.2018, defendants were allowed to file reply to the application under Order 11 Rule 14 read with Section 151 CPC filed by the petitioner for production of documents.

[4]. At one stage vide order dated 06.08.2018, defendants were allowed to file reply to the application under Order 11 Rule 14 read with Section 151 CPC which was filed by the petitioner for production of documents. Thereafter, the petitioner was proceeded against *ex parte*. The application for setting aside the same was allowed and he was allowed to join the proceedings. Petitioner was not allowed to file reply to the application under Order 11 Rule 14 read with Section 151 CPC.

[5]. Learned counsel for the petitioner contended that once all the defendants were allowed to file reply to the application under Order 11 Rule 14 read with Section 151 CPC. Thereafter, solely on the ground that he was proceeded against *ex parte* at one point of time cannot be denied to file reply, nor the factum of order vide which he was proceeded against *ex parte* come into fray as the order dated 06.08.2018 would have the effect of nullifying the order vide which he was proceeded against *ex parte*.

[6]. At this stage, it can be appreciated that the suit was filed by wife of the petitioner. Defence of the petitioner was struck off for want of written statement and the said order had attained finality. Though he was also granted permission to file reply to the application of the plaintiff along with other defendants, therefore, he can be accommodated for one opportunity for filing reply to the same without meaning anything on merits of the case subject to costs of Rs.15,000/- to be paid to respondents No.2 to 8. Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

[7]. Disposed of.

01.04.2019

Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No