

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

**CR No.3408 of 2019(O&M)
Date of Decision: 23.05.2019**

**Punjab State Procurement Corporation Limited and another
.....Petitioners**

Versus

M/s Gill Rice Mills and anotherRespondents

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

Present:Mr. T.S. Sidhu, Advocate
for the petitioners.

Mr. Arjun Shukla, Advocate
for the respondent(s)/caveator.

RAJ MOHAN SINGH, J.

[1]. Petitioners have preferred this revision petition against the order dated 24.04.2019 passed by Civil Judge (Senior Division), Gurdaspur vide which defence of the petitioners was struck off.

[2]. The application was filed by the plaintiff/respondent No.1 for striking off the defence of defendants No.1 to 3 on the premise that the defendants appeared in the case on 25.10.2018 and till 04.02.2019, they did not file any written statement. In-action on the part of the defendants was in

violation of Order 8 Rule 1 CPC.

[3]. On 04.02.2019, an application was filed under Section 8 of Arbitration and Conciliation Act by the defendants. Non-filing of the written statement as on 04.02.2019 was beyond the extended period of 90 days from the date of service of summons.

[4]. The contention of learned counsel for the petitioners was that due to filing of application under Section 8 of Arbitration and Conciliation Act, the written statement could not be filed even within the period of 120 days from the date of issuance of summons.

[5]. In view of ratio laid down in **M/s SCG Contracts India Pvt. Ltd. Vs. K.S. Chamankar Infrastructure Pvt. Ltd. and others, 2019(2) RCR (Civil) 249**, written statement is to be filed within a period of 30 days. However, grace period of a further 90 days can be granted for the reasons to be recorded in writing and payment of such costs as it deems fit by the Court in allowing such indulgence. Beyond the period of 120 days from the date of service of summons, right of the defendants to file written statement has to be forfeited and the Court shall not allow written statement to be taken on record. The Hon'ble Apex Court has held that the Court has no further power to extend time beyond the period of 120 days.

[6]. Perusal of the record would show that defendants appeared in Court on 25.10.2018. Written statement was not filed even within the grace period of 90 days. Non-filing of the written statement under the garb of pendency of application under Section 8 of the Arbitration and Conciliation Act cannot be appreciated in view of ratio laid down by the Hon'ble Apex Court in **M/s SCG Contracts India Pvt. Ltd. case (supra)**.

[7]. In view of above, no indulgence can be granted in this revision petition. This revision petition is accordingly dismissed.

23.05.2019

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**(RAJ MOHAN SINGH)
JUDGE**

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No