

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

CR No.4928 of 2019

Date of decision: 19.08.2019

Sar Auto Products Ltd.

...Petitioner

Versus

New Allenberry Works and another

...Respondents

CORAM:HON'BLE MS. JUSTICE RITU BAHRI

Present: Ms. Ruchi Gupta, Advocate,
for the petitioner.

Ritu Bahri, J.

Challenge in this petition is to the order dated 16.08.2018 (Annexure P-1) passed by the Civil Judge (Junior Division), Faridabad, whereby defence of defendant-petitioner has been struck off and order dated 17.05.2019, whereby application filed by defendant-petitioner under Section 151 CPC for grant of one more opportunity to file written statement, has been dismissed.

Plaintiff-respondent No.1 filed a suit for recovery of Rs.3,52,968/- against the defendant-petitioner in the year 2017. The case was fixed for 08.08.2018 for filing of the written statement. But, counsel for the defendant (petitioner herein) sought a date and thereafter, the case was adjourned to 16.08.2018 for the said purpose. However, inadvertently, counsel for the defendant had noted down the date as 18.08.2018. In this backdrop, the defence could not file written statement. On this ground,

defence of the defendant was struck down on 16.08.2018. Thereafter, an

application under Section 151 CPC was filed seeking one more opportunity to file the written statement, which has been dismissed vide impugned order dated 17.05.2019.

A perusal of the impugned order dated 17.05.2019 shows that after expiry of 90 days, several opportunities were granted to the defendants to file the written statement. However, there was a mistake on the part of counsel for the defendant-petitioner in noting down the date of hearing as 18.08.2018. In the given circumstances of the case, to impart complete justice to the parties and also to avoid deprivation of full opportunity to the petitioner (defendant), this Court deems it appropriate to provide some time to the petitioner (defendant) to file its written statement.

In view of the above, impugned orders dated 16.08.2018 (Annexure P-1) and 17.05.2019 are set aside and one effective opportunity is granted to defendant-petitioner to file its written statement before the trial Court within a period of 15 days from the date of receipt of certified copy of this order, subject to costs of ₹5,000/- to be deposited with the District Legal Services Authority, Faridabad.

Allowed accordingly.

19.08.2019
ajp

(RITU BAHRI)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No