

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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C.R No. 6193 of 2018 (O&M)

Date of decision: 16.01.2020

Bunty

... Petitioner

Vs.

Kamal Chand & Ors.

...Respondents

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present:- Mr. Jagan Nath Bhandari, Advocate, for the petitioner.

Mr. Raghav Sharma, Advocate, for respondent No.1.

Mr. J.S. Bagga, Advocate, for respondent Nos. 3, 4 and 5.

Mr. Pawan Rangta, Advocate, for respondent No.12.

ALKA SARIN, J.

The present revision is directed against the order dated 31.08.2018 (Annexure P-1), whereby the defence of the petitioner has been struck off.

The petitioner –defendant No.9 had moved an application under order 1 Rule 10 of the Code of Civil Procedure (hereinafter referred to as, 'CPC') for being impleaded as party. The said application was allowed on 17.07.2018, however, the petitioner did not file his written statement and on 17.08.2018 and the defence of the petitioner was struck off. However, it was stated in the order that in case defendant No.9 – petitioner herein was able to file his written statement before 12 Noon on 20.08.2018, the same shall be taken on record. Admittedly, the written statement was filed by the petitioner on 20.08.2018 but post 12 Noon. On an objection raised by defendant No.1 in the suit the order striking of the defence was confirmed.

I have heard learned counsel for the parties.

I am of the considered opinion that present revision petition deserves to be allowed. Inasmuch as a bare perusal of the order dated 31.08.2018 itself reveals that the written statement was filed on 20.08.2018, however since the same was post 12 noon, the defence of the petitioner herein was struck off. The petitioner herein has duly complied with the order and ought to have been shown leniency by the trial Court for the delay of two hours in filing the written statement.

I, therefore, do not deem it fit case where defence ought to have been struck off.

In view of the above the present revision petition is allowed and order dated 31.08.2019 is set aside.

January 16, 2020
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(ALKA SARIN)
JUDGE

Whether speaking/reasoned	: Yes/No
Whether Reportable	: Yes/No