

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

CR No. 880 of 2021

Date of Decision: 09.04.2021

Jasdev Singh

...Petitioner.

Vs.

Jarnail Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. D.S.Randhawa, Advocate,
For the petitioner.

ARUN MONGA, J. (ORAL)

Petition herein is for setting aside an order dated 13.03.2020 passed by the learned trial Court, whereby an application filed by the respondent-defendant under Section 151 of CPC seeking permission to file written statement was allowed.

The ground, *inter alia*, is that the trial court could not have allowed the application without recalling the earlier order dated 03.01.2020 vide which defence of the defendant was struck off for non-payment of costs of Rs.500/-, as well as, having not filed the written statement within the permissible period of 90 days prescribed under Order 8 Rule 10 of CPC.

Having heard learned counsel for the petitioner and on perusal of order impugned herein, I find no grounds to interfere. The arguments of learned counsel for the petitioner on first flash may see technically correct. However, other than having some technical strength in the same, if any, there is no other substance, inasmuch as, it is irrefragable position in law that the trial court is vested with inherent powers under Section 151

CPC to correct any mistake and/or recall its own order in the interest of justice, at a later stage, if the circumstances are made out.

As regards the argument of learned counsel for the petitioner that, had there been a revision petition preferred by the defendant-applicant to challenge the earlier order dated 03.01.2020 and if said order were set aside in the revisional jurisdiction, only in that premise, the trial Court would have entertained the written statement also flies in the face of inherent powers vested under Section 151 CPC. The position with regard to provision contained under order 8 Rule 10 of CPC is also no more res integra. Same being merely procedural and directory in nature and not to be used to sub-vert the substantive provisions under which the proceedings are pending before the trial Court. Rules of prescribed procedure, in any case, are handmaids of justice, is settled position in law.

In the aforesaid premise, I do not find any illegality in the order under challenge before this Court.

Dismissed.

April 9, 2021
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No