IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 1101 of 2021
DATE OF DECISION :- August 26, 2021

Sokhal Minerals Pvt. Ltd. and others. **...Petitioners**

Versus

Gurmeet Singh **...Respondent**

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Puneet Bali, Senior Advocate
with Mr. Vibhav Jain, Advocate for the petitioners.

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The case has been taken up through Video Conferencing.

Plaintiff Gurmeet Singh had filed a suit against defendants Sokhal Minerals Pvt. Ltd., Raman Sokhal and Aman Sokhal under Order 37 of the Code of Civil Procedure for recovery of Rs.19.30 lacs with interest and cost. Summons of the suit were sent to defendants who were duly served on 24.4.2019. In terms of Order 37 Rule 3 CPC, the defendants were required to put in appearance within ten days of service, however, it was not so done. Subsequently, the defendants appeared and moved an application for putting in appearance rendering an explanation that their non appearance within stipulated time was not intentional or wilful but on account of the fact that they were busy in connection with matter pending before the High Court. However, the trial Court did not find the explanation to be satisfactory and had dismissed the application for condonation of delay in putting appearance vide impugned order dated 2.2.2021.

Feeling aggrieved, the defendants have approached the Court by way of filing the present revision petition, which is being opposed on

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behalf of the plaintiff. Sh. B.S. Mittal, Advocate has filed caveat on behalf of the plaintiff, who is respondent in the revision petition and has put in appearance for respondent-plaintiff in the Court.

I have heard learned counsel for the parties besides going through the record.

No doubt the defendants should have been careful and vigilant enough to put in appearance in the trial Court within stipulated time, however, it is to be kept in view the fact that it is always desirable to decide a lis on merits rather closing doors of contest upon respondent by adopting a hyper technical approach. The delay in putting in appearance according to learned counsel for the respondent is 25 days. The plaintiff can be adequately compensated in terms of cost. Therefore, in my considered view, the prayer of the defendants for being permitted to put in appearance and then file leave to defend deserves to be accepted in the interest of justice.

Accordingly, the revision petition is accepted. The impugned order is set aside and respondents are permitted to put in appearance and file an application for leave to defend as contemplated under Order 37 CPC subject to payment of Rs.25,000/- each as cost to the plaintiff. On payment of cost, the trial Court shall proceed further with the matter in accordance with law and then to decide the matter expeditiously.

(H.S. MADAAN)
JUDGE

August 26, 2021

p.singh

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No

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