

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

CR-3375-2021 (O&M)

Date of Decision: December 20, 2021

M/s Daya Singh Suresh Kumar and others

...Petitioners

VERSUS

Virender and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Pawan Kumar Hooda, Advocate
for the petitioners.

ARCHANA PURI, J.

The matter has been taken up through video conferencing in the light of COVID-19 pandemic.

Through the present petition, the petitioners have challenged the order dated 03.08.2021 passed by learned Addl. District Judge, Panipat, vide which, defence of the petitioners-defendants was struck off, on account of non-filing of written statement, despite the expiry of 90 days.

However, at this stage, learned counsel for the petitioners submits that dispute between the parties to the lis, is commercial dispute of a specified value and therefore, special Amendment made in Order VIII Rule 1 of CPC in 2015, is applicable, wherein, the period given to file the written statement is 120 days from the date of service of summons.

However, in the present case, the impugned order, thereby striking off the

defence of the defendants, has been passed, after the expiry of 90 days.

The perusal of the relevant Amendment, reads as herein given:-

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”

The copy of the plaint has been annexed as Annexure P-2. The perusal of the same reveals that the plaintiffs had filed suit for recovery of specific amount of Rs.28,79,198/- and it is a commercial dispute. In the light of the same, the requisite period to be considered, for filing of the written statement was 120 days, from the date of service of summons and not 90 days, as considered by the lower Court.

In view of the above discussion, the impugned order dated 03.08.2021 passed by learned Addl. District Judge, Panipat is hereby set aside and learned lower Court is hereby directed to give only one opportunity to the defendants-petitioners, for filing of the written statement on the next date fixed before the lower Court i.e. 10.02.2022.

December 20, 2021
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No