

CR-2630-2022 (O&M)**Date of decision : 29.11.2022****Sunny Bansal****...Petitioner****Vs.****Sunita Gupta and others****...Respondents****CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ**

Present: Mr. Govind Chauhan, Advocate for the petitioner.

*********MANOJ BAJAJ, J.****CM-15286-CII-2022**

This is an application for placing on record interim orders passed in Civil Suit No.1967 of 2016.

Application is allowed and interim orders Annexure P-5 (colly) is taken on record.

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Petitioner has filed this revision petition for setting aside the order dated 02.12.2016 (Annexure P-2) passed by the Civil Judge (Junior Division), Karnal, whereby in a Civil Suit bearing No.1967 of 2016, his defence was struck off, as no written statement was filed, in stipulated period.

Learned counsel has argued that though the petitioner had appeared before the trial Court on 01.09.2016 and sought time to file written statement and later few more adjournments were also granted, but the same was not filed and on 02.12.2016, the Court proceeded to strike off the defence

of petitioner. Learned counsel refers to the interim orders and submitted that in October, 2017 plaintiff sought amendment of plaint and the said application remained pending for a long time, which was dismissed on 20.12.2019.

Learned counsel further states that the written statement is ready with the petitioner and would be filed positively on or before 31.01.2023 i.e. the date fixed before the trial Court. He submits that in case, the petitioner is allowed to file his written statement, no prejudice would be caused to the other side. Learned counsel prays that the impugned order be set aside and one last opportunity to file written statement be granted.

Heard.

In view of the limited relief prayed for by the petitioner, this Court is not inclined to issue notice to the respondent, as it may cause unnecessary burden upon him and the nature of order would not cause any prejudice to him. However, it is made clear that in case, the respondent feels that the petitioner has not approached this Court with clean hands, it shall be open for him to seek recalling of this order.

Upon considering the submissions made by learned counsel and examining the zimni orders passed by trial Court, it is evident that though the defence of the defendant was struck off on 02.12.2016, but he was allowed to contest the application for amendment of plaint, wherein the petitioner had filed his reply on 01.12.2017. Further, soon after dismissal of application under Order VI, Rule 17 CPC, there was breakout of pandemic COVID-19 and suit proceedings were delayed, and so far examination in chief of plaintiff Sunita Gupta is recorded. Thus, the suit is at the initial stage, and examining the nature of the dispute, the impugned order dated 02.12.2016 is set aside and the

petitioner is granted only one opportunity to file his written statement on or before the next date of hearing fixed before the trial Court i.e. 31.01.2023.

Disposed of.

(MANOJ BAJAJ)
JUDGE

29.11.2022
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No