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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3083-2022 (O&M)

Date of Decision:04.08.2022

Sanjeev Kumar

.. Petitioner

Vs.

Goyal Automobiles and another

..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Prashant Bansal, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

This revision petition has been filed under Article 227 Constitution of India for setting aside the orders dated 18.03.2021 (Annexure P-2) and order dated 07.07.2022 (Annexure P-5) passed by Civil Judge (Sr. Divn.) Patiala, whereby firstly the defence of the petitioner (defendant) was struck off for not filing the written statement in time and later, his application for recalling the order dated 18.03.2021 was also dismissed.

Learned counsel contends that the suit by plaintiffs relates to recovery of damages for causing unnecessary physical and mental harassment, loss of reputation to them, as defendant uploaded false messages with a malafide intention to harass and to involve them in false allegations. He submits that the court has struck off the defence of the petitioner/defendant for not filing the response within stipulated time and considering the nature of the relief claimed by the plaintiffs, it would be in their interest also, if the defendant is allowed to file his written statement. He submits that the suit was filed on 18.10.2019 and the defendant appeared on 16.12.2019 and the suit was adjourned to 22.01.2020 for filing written

statement and on 22.01.2020, the petitioner/defendant had filed application under Order VII Rule 11 CPC and defendant/his counsel was under the impression that the case is pending for arguments on the application under Order VII Rule 11 CPC and soon thereafter, there was breakout of Pandemic Covid-19, therefore, the written statement could not be filed in the prescribed period and the defence was struck off on 18.03.2021. Thereafter, the application was filed for recalling the said order, but the same was also dismissed.

Heard.

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

After hearing the learned counsel and considering the above background, it is noticed that no doubt, various opportunities were given to the defendant/petitioner to file his written statement, but he failed to do so. Of course, during the pandemic Covid-19, working and functioning of the Courts was adversely affected due to restrictions imposed by State government.

This Court as well as Hon'ble Supreme Court had also injected some elasticity in the period of limitation, therefore, considering the facts and background of the case in totality, particularly the relief claimed by the plaintiffs, the impugned order dated 18.03.2021 is set aside and the petitioner (defendant) is allowed to submit his response positively on the

next date of hearing i.e. 24.08.2022.

Disposed of.

04.08.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes No
Yes No