

130 IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-3157-2022  
Decided on : 08.08.2022

Pragya Aggarwal

..... Petitioner

Versus

Deep Batra and another

..... Respondents

**CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL**

Present : Mr. Sunil Chadha, Sr. Advocate with  
Mr. Akshay Chadha, Advocate and  
Mr. Tara Dutt, Advocate  
for the petitioner.

\*\*\*\*

**Manjari Nehru Kaul, J.(Oral)**

The petitioner is seeking setting aside of order dated 03.08.2022 (Annexure P-8) passed by Civil Judge (Jr. Divn.), Hodal, Faridabad vide which an application dated 03.08.2022 (Annexure P-7) filed by the petitioner-plaintiff seeking permission to file replication to the written statement of the respondents-defendants was dismissed.

Learned Senior counsel for the petitioner inter alia contends that the impugned order is erroneous and non-speaking inasmuch as the application filed by the petitioner had not even been considered on merits and dismissed only on the ground of non-appearance of the counsel for the petitioner. He submits that the counsel for the petitioner appeared before the trial Court during the morning session of the Court proceedings, however, he could not appear in the post lunch session due to a personal difficulty, which fact was duly intimated to the Court concerned. While

drawing the attention of this Court to the impugned order, learned Senior counsel submits that it was evident that the trial Court had proceeded in a tearing hurry without considering the merits of the said application.

Learned senior counsel submits that the respondents had intentionally with an ulterior motive misrepresented certain facts in their written statement so as to frustrate the claim of the petitioner. Therefore, to clarify the stand of the petitioner and to controvert the pleas taken by the respondents in their written statement, it would be necessary to file a replication to the written statement.

Heard learned counsel for the petitioner and perused the relevant material available on record.

A perusal of the impugned order reveals that the counsel for the petitioner was indeed present in the morning session of the Court, however, due to some work, he was unable to appear which resulted in the passing of the impugned order vide which application for permission to file replication against the written statement was dismissed.

Subsequent pleadings such as replication can only be filed with the leave of the Court, if in the facts of circumstances, the Court deems it appropriate. Since in the instant case, the petitioner has alleged that there had been misrepresentation and distortion of facts by the respondents in their written statement, this Court in the facts and circumstances deems it appropriate to grant permission to the petitioner to file replication to the written statement of the respondents.

As a sequel to the above, the present petition is allowed and the impugned order dated 03.08.2022 is set aside to the extent of dismissal of

application for seeking leave to file replication. The petitioner is granted only two weeks time from today to file his replication.

(MANJARI NEHRU KAUL)  
JUDGE

08.08.2022  
*sonia*

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