

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

Sr. No.116

CR-547-2023

Date of Decision: 27.02.2023

ANDEEP SINGH @ ANDEEP SINGH CHAHAL

....Petitioner

VERSUS

**GRAM PANCHAYAT, VILLAGE RASULPUR BRAHMA, TEHSIL
KARTARPUR, DISTRICT JALANDHAR AND OTHERS**

..... Respondent

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Kamaljit Singh Dhillon, Advocate,
for the petitioner.

ARCHANA PURI, J. (ORAL)

Challenge in the present revision petition is to the order 07.12.2022 (Annexure P-4) passed by the Court below in Civil Suit i.e. CS/1756/2022, whereby an application filed by the petitioner/plaintiff for striking off the defence of defendant No.1/respondent No.1-Gram Panchayat, has been disposed of, as infructuous.

In view of the observations, which are to be followed further, this Court deems it appropriate to dispose of the present revision petition, even without issuance of notice to the respondents.

Facts, as culled out from the paperbook are that initially, the present petitioner-Andeep Singh @ Andeep Singh Chahal, had filed a suit for declaration and permanent injunction against Gram Panchayat and proforma respondents. Perusal of the zimini orders, which form part of the paperbook reveals about the contesting respondent-Gram Panchayat to have made appearance on 10.06.2022 and thereafter, the case was fixed for filing of written statement and reply to the stay application, for 07.07.2022.

Thereafter, on 16.08.2022, a request for adjournment was made and case was adjourned to 24.08.2022 and on the said date, the case was adjourned further to 31.08.2022, for the purpose of filing of written statement as well as reply to the stay application. So far as contesting respondent No.1 is concerned, on 31.08.2022 also, written statement as well as reply to the stay application, was not filed and the case was adjourned to 14.09.2022. On the said date, even an application under Order 11 Rule 14 CPC was also filed. On 14.09.2022, reply to the said application filed under Order 11 Rule 14 CPC was filed and the case was further adjourned to 03.10.2022, only for consideration on the said application.

However, since the Presiding Officer was on leave from 03.10.2022 to 04.10.2022, the case was adjourned to 07.12.2022, vide order dated 01.10.2022. Thereafter, on 31.10.2022, the case was again taken up, as the petitioner/plaintiff had filed an application for striking off the defence of the defendant. On the next date i.e. 07.12.2022, written statement was filed qua the stay application and the application for striking off the defence of the defendant was observed to have become infructuous and was dismissed as such.

It is submitted by learned counsel for the petitioner that there was no specific extension of the period for filing of the written statement, by the Court below and in view of the same, the written statement filed on the date when the impugned order was passed, was much beyond the period of 90 days.

Even though, in the zimini orders, as so observed, no specific mention has been made about giving further time to the contesting

respondent, to file written statement, but however, the adjournment of the case for the said purpose, as observed in the various zimini orders, establish about the extension, impliedly having been given to file written statement.

Admittedly, the suit filed by the plaintiff is not the one which is governed by the Commercial Act, 2015. Keeping in view the same, a reference is made to the decision rendered by Hon'ble Supreme Court in ***Civil Appeal No.3788 of 2022*** titled as '***Bharat Kalra v/s Raj Kishan Chabra***' decided on 09.05.2022, wherein, while placing reliance upon the decision rendered in '***Kailash v/s Nankhu and others, (2005) 4 SCC 480***' it was held that the time limit for filing of the written statement under Order VIII Rule 1 CPC is not mandatory. Furthermore, it was also stated that delay in filing of the written statement could very well be compensated with costs but denying the benefit of filing the written statement is unreasonable.

In Kailash's case supra, the Court held as herein given:

(iv) The purpose of providing the time schedule for filing the written statement under Order VIII, Rule 1 of CPC is to expedite and not to scuttle the hearing. The provision spells out a disability on the defendant. It does not impose an embargo on the power of the Court to extend the time. Though, the language of the proviso to Rule 1 of Order VIII of the CPC is couched in negative form, it does not specify any penal consequences flowing from the non- compliance. The provision being in the domain of the Procedural Law, it has to be held directory and not mandatory. The power of the Court to extend time for filing the written statement beyond the time schedule provided by Order VIII, Rule 1 of the CPC is not completely taken away.

Considering the aforesaid case law and also keeping in view the nature of the suit, the Court has power to extend the time for filing of the written statement beyond the time schedule provided by Order VIII Rule 1

CPC. Even the adjournment having granted after the expiry of 90 days, as such, amounts to implied extension of time.

In view of the aforesaid observations, there is no merit in the present revision petition and hence, the same is hereby dismissed.

27.02.2023

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No