

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(113)

CR-497-2023

Date of Decision : January 24, 2023

Kashish Gupta

.. Petitioner

Versus

Banyan Tree Holidays and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Amit Sharma, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

Present revision petition has been filed for setting aside the order dated 12.12.2022 (Annexure P-12) by which the defence of the petitioner-defendant No.2 has been struck off for not filing the written statement even after grant of five opportunities for the same.

Learned counsel for the petitioner submits that though the order dated 12.12.2022 (Annexure P-12) is not being challenged on merits but another opportunity is being claimed to file the written statement so that the lis between the parties is decided on the basis of merits. Learned counsel for the petitioner further submits that one more opportunity may be extended to the petitioner-defendant No.2 to file the written statement even if the same has to be on the basis of the cost.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

Though, it cannot be said that the opportunities were not given to the petitioner to file the written statement. From the record, it is clear

that five opportunities were already granted and one opportunity was granted even with cost but the said opportunity went a bagging as the same were not utilized by the petitioner so as to file the written statement.

Under these circumstances, there was no other option but to struck off the defence of defendant No.2. As no further proceedings have been undertaken after passing of the order dated 12.12.2022 (Annexure P-12), in the interest of justice, one more opportunity is granted to the petitioner-defendant No.2 to file the written statement so that the lis between the parties is decided on merits. In case, the written statement is filed on or before 27.02.2023, which date is fixed before the trial Court, the trial Court is directed to accept the same but with the cost of Rs.10,000/- to be paid to the plaintiff so as to compensate the plaintiff for the delay which has been caused by defendant No.2 by his act.

In case, the petitioner complies with the above said terms and conditions, the order dated 12.12.2022 (Annexure P-12) be treated having been set aside and in case the conditions are not complied with by the petitioner as mentioned in this order, the order dated 12.12.2022 will remain in operation and the civil revision petition filed by the petitioner will stand dismissed.

The present civil revision petition is allowed in above terms.

January 24, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No