

Civil Revision No. 3247-2023

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112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Civil Revision No. 3247-2023 (O&M)
Date of decision 25.05.2023

Estate Officer, Haryana Shehri Vikas Pradhikaran Rewari, District Rewari & Anr

.....Petitioner

versus

Rahul and others

.....Respondents

Coram: Hon'ble Mr. Justice Rajbir Sehrawat

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Present: Mr. Arvind Seth, Advocate for the petitioner

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Rajbir Sehrawat, J. (Oral)

1) The present revision petition has been filed under Article 227 of the Constitution of India, praying for setting aside the impugned order dated 14.11.2022 (Annexure P-1) passed by the Civil Judge (Senior Division), Kosli, District Rewari in CIS No. CS/85/2022, whereby the defence on behalf of the petitioners/defendants No. 3 and 4 is struck off.

2) It is submitted by counsel for the petitioner that the petitioner is a public body involved in protection of the public properties. The petitioner is the contesting defendant in the civil suit. On some dates, the written statement could not be filed by the petitioner because of unavoidable circumstances. As a result, the trial Court has struck off the right of the petitioner to file the written statement and to defend the suit accordingly. However, the petitioner being the contesting defendant in the suit, the case would be seriously prejudiced against the petitioner, if the petitioner is not permitted to file the written statement and to defend the suit

accordingly. Counsel has further submitted that the petitioner would not waste any more time of the Court. Therefore, atleast, one opportunity may be granted to file the written statement and thereafter, to defend the suit accordingly.

3) Having heard the counsel for the petitioner and having gone through the case file, this Court finds that the trial Court has granted several opportunities to the petitioner; including several opportunities on specific requests of the petitioner; to file the written statement. Not only that, on the date pervious to the last date, it was also specified that it would be the last opportunity for the petitioner to file the written statement. Despite that, the petitioner chose not to file the written statement. Therefore, this Court does not find any *ex-facie* impropriety in the course adopted by the Trial Court.

4) However, the procedural law is hand-made to subserve the purpose of disbursal of substantial justice. In case of competition between the procedural aspects and the substantial justice, it is the interest of substantial justice, which has to prevail in the Court proceedings. Moreover, since the petitioner is the contesting defendant, therefore, the suit would be seriously prejudiced if the petitioner is not granted an opportunity to file the written statement and to defend the suit. Hence, it would not be inappropriate to grant one effective opportunity to the petitioner to file the written statement and to defend the suit, however, by putting the petitioner under some appropriate financial burden so as to make it realize its mistake in wasting time of the Court.

5) In view of the above, the impugned order dated 14.11.2022 passed by the Civil Judge (Senior Division) Kosli, District Rewari in CIS No. CS/85/2022) is set aside and the trial Court is directed to grant one effective opportunity to the petitioner to file the written statement, subject to payment of Rs.20,000/- as costs,

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to be deposited with the Poor Patient Welfare Fund, PGIMER, Chandigarh; within a period of fifteen days from today.

6) It is, however, clarified that the trial Court shall grant the said opportunity to the petitioner only on production of receipt of the costs having been deposited, as ordered above.

7) After deposit of the costs, the amount of costs is ordered to be recovered, in equal proportion, from the concerned Estate Officer, the concerned Superintendent and the dealing Assistant of the matter; posted in the office of the petitioner.

(Rajbir Sehrawat)
Judge

May 25, 2023

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No