

2023:PHHC:104694

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3846-2023 (O&M)

Date of Decision: August 11, 2023

M/s Crown Beers India Pvt. Ltd.

...Petitioner

Versus

Pacific Merchants and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Gurmandeep Singh Sullar, Advocate
for the petitioner.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 21.04.2023 (Annexure P-3) passed by learned Court below, whereby, in the Civil Suit No.1522-22, the defence of the petitioner, who was defendant before the Court below, was struck off.

Learned counsel for the petitioner heard.

From the perusal of the various zimini orders, which have been placed on record as Annexures P-2 and P-3, it is evident that firstly, the suit was entertained by learned Court below on 20.05.2022 and thereupon, the notice was ordered to be issued for 26.08.2022. On that day, summons were not received back and substituted service of the defendants was ordered

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through publication for 16.11.2022. It was on 16.11.2022, the present petitioner and defendants had made appearance through counsel and the case was fixed for filing of the written statement for 12.12.2022. However, on the next date, the case was simply adjourned for 11.01.2023, as the Court concerned was on leave. Thereupon, the case was taken up on 11.01.2023 and it was adjourned for 28.02.2023. On the next date, an application for production of documents was filed at the behest of the petitioner, which was finally disposed of vide order dated 23.03.2023 and the case was adjourned for 21.04.2023 and perhaps, this was one effective opportunity, coming forth, for filing of the written statement, in pursuance of the order passed for the production of the documents. On that very day, i.e. 21.04.2023, the defence of the petitioner was struck off.

Considering the aforesaid fact situation, in pursuance of the order passed on the application for production of documents, which was allowed and copies of the documents were provided to the petitioner, the date i.e. 21.04.2023, was the first effective opportunity given to file written statement.

On query by this Court, it was disclosed by learned counsel for the petitioner that even though, the case was fixed for the evidence of the respondents-plaintiffs for 11.07.2023, but no evidence, as such, was recorded on that date and now the case is fixed for 15.09.2023 for evidence. As such, till date, the case has not made further progress, after the defence has been struck off.

Considering the aforesaid fact situation, the impugned order dated 21.04.2023 is set aside. Learned Court below shall grant only one opportunity to the petitioner to file written statement, on the next date of hearing.

Accordingly, the present petition stands allowed.

August 11, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No