

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR No.3772 of 2022

Date of Decision : 12.04.2023

Post Graduate Institute of Medical Education and Research,Petitioner
Chandigarh

VERSUS

M/s Borosil Glass Works Ltd.Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Anil Kumar Sharma, Advocate for the petitioner.

Mr. Rajat Malhotra, Advocate for the respondent.

ALKA SARIN, J. (Oral)

The challenge in the present revision petition is to the order dated 16.08.2022 whereby the application filed by the defendant-respondent for placing on record the original written statement along with annexures has been allowed.

The brief facts relevant to the present *lis* are that the plaintiff-petitioner filed a civil suit for recovery of Rs.21,13,958/- along with interest @ 18% per annum. The defendant-respondent filed the written statement, however, inadvertently, an unsigned photocopy of the written statement was filed by the counsel without appending the annexures. The plaintiff-petitioner filed a replication to the said written statement. Thereafter, an application was filed seeking permission to place on record the original written statement along with annexures. The said application was allowed vide order dated 16.08.2022.

Learned counsel for the plaintiff-petitioner would contend that the plaintiff-petitioner had filed its replication to the written statement filed by the defendant-respondent, which was filed without any annexures.

Therefore, while allowing the application for placing on record the original written statement along with annexures, a fresh opportunity ought to have been afforded to the plaintiff-petitioner to file the replication.

Per contra learned counsel for the defendant-respondent has stated that there is no change in the written statement and hence no fresh replication would be required to be filed.

I have heard learned counsel for the parties.

It is trite that filing of the photocopy of the written statement would only be a procedural defect. Though the Court below has rightly allowed the application, however, since the plaintiff-petitioner had already filed its replication to the written statement, which was filed without appending the annexures, the Trial Court ought to have afforded a fresh opportunity to the plaintiff-petitioner to file the replication to the original written statement filed by the defendant-respondent along with the annexures.

In view of the above, the present revision petition is partly allowed. Though the impugned order dated 16.08.2022 is upheld, however, the plaintiff-petitioner shall be granted a fresh opportunity for filing a replication to the written statement which has been permitted to be placed on the record along with the annexures.

Disposed off in the above terms. Pending applications, if any, also stand disposed off.

12.04.2023
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO