

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.130

Case No. : C.R. No.4820 of 2023

Date of Decision : August 23, 2023

M/s Vilkhu Traders and another Petitioners
vs.

State Bank of India Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr.Gaurav Datta, Advocate
for the petitioners.

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GURBIR SINGH, J. :

1. Challenge in this revision petition is to the order dated 04.07.2023 (Annexure P-5), passed by learned Civil Judge (Senior Division), Chandigarh (for brevity - Trial Court), whereby defence of the defendants-petitioners has been struck off.

2. The respondent-State Bank of India is plaintiff and petitioners herein are defendants before the learned Trial Court. The parties are being addressed to as in the original suit before the learned Trial Court.

3. The facts, as culled out from the paper book, are that the plaintiff filed a suit for recovery. The defendants appeared before the Trial Court on 08.07.2022 through counsel, who filed Memo of Appearance on their behalf. On 17.01.2023, both the parties stated before the Court that there were chances of compromise. So, the matter was referred to Mediation Centre for 23.01.2023. The matter could not be settled there and on

10.05.2023, the matter was again referred to National Lok Adalat, to be held on 13.05.2023. However, the matter could not be compromised even there. Thereafter, vide order dated 04.07.2023, defence of the defendants was struck off.

4. Learned counsel for the defendants has submitted that the efforts for compromise were being made, therefore, written statement could not be filed. He has further submitted that only one opportunity may be granted to the defendants to file the written statement.

5. I have heard learned counsel for the defendants and perused the case file.

6. Keeping in view the facts that the matter was sent to Mediation Centre and thereafter, to National Lok Adalat but the parties failed to settle the dispute, and also the fact that no prejudice would be caused to the plaintiff if one opportunity is granted to the defendants to file the written statement, this Court is of the view that the instant petition deserves to be allowed. This view of mine finds support from a judgment of Hon'ble Supreme Court in **Salem Advocate Bar Association vs. Union of India** reported as **(2005) 6 SCC 344**, in which it is held that there is no restriction in Order 8 Rule 10 CPC that after expiry of 90 days, further time cannot be granted.

7. In order to avoid financial burden on the plaintiff, and also to avoid further delay in the disposal of the case, notice to the plaintiff is not being issued at this stage. Therefore, keeping in view that a person should not be non-suited due to the procedural hitch, order dated 04.07.2023 passed by learned Trial Court is set aside, subject to payment of Rs.5,000/- as costs

to be deposited with the District Legal Services Authority, Chandigarh. The Trial Court is directed to grant one opportunity to the defendants to file written statement on 05.09.2023 i.e. the date already fixed before the Trial Court. In case of default by the defendants, this order shall automatically stand vacated.

8. In case, the plaintiff Bank is not satisfied with this order, it may move application for recalling the same within 30 days.
9. Pending applications, if any, shall stand disposed of along with this judgment.

August 23, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.