

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CR-6035-2022 (O&M)

Date of Decision: February 15, 2023

HDFC Bank Limited and another

...Petitioners

AND

Haryana Medical Services Corporation Limited

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Mr.Nitin Thatai, Advocate
for the petitioners.

Mr.Prateek Mahajan, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 11.11.2022, whereby, defence of the petitioners-defendants has been struck off, due to non-filing of the written statement.

Learned counsel for the petitioners submits that petitioners-defendants had made appearance before learned Court below, for the first time on 15.03.2022 and then further, on 26.07.2022, case was adjourned, for the purpose of filing of the written statement for 11.11.2022. However, on 11.11.2022, due to some constrained circumstances, in between, learned counsel for the petitioners-defendants, was though representing the bank, before the Court below, but could not make appearance, on account of personal difficulty, relating to which, he had sent an E-mail to the bank.

Though, a counsel was appointed by the petitioners-bank, but inadvertently, he did not make appearance. Learned counsel for the petitioners also submits that in the impugned order, the presence of Ms.Rupali, for the petitioners-defendants had been marked, though, she had not made appearance and had already left the office of present counsel for the petitioners, by the time, the impugned order is passed. As such, it is submitted that her presence has been wrongly marked.

On the other hand, it is submitted by learned counsel for the respondent that sufficient opportunity had already been granted to the petitioners to file written statement and despite, last opportunity, the petitioners have not complied with the order passed by the Court below and therefore, the defence has been rightly struck off.

The zimini orders are placed on record. Perusal of the same reveals about submissions, so made, by learned counsel for the petitioners, are in consonance with the zimini orders, so passed. It was on third opportunity, so granted, to file the written statement, that the defence has been struck off. Also, the copy of the E-mail sent by the counsel to the petitioners-bank, on 21.09.2022, has been placed on record.

Seemingly, it was on account of constrained circumstances that the written statement was not filed on the date fixed and the impugned order was passed.

Considering the aforesaid fact situation, without prejudice to the rights of the parties, to be adjudicated on merits, the present revision petition is accepted and the impugned order is set aside. Only one opportunity is granted to the petitioners-defendants, to file written

statement before learned Court below, within a period of three weeks, subject to deposit of costs of Rs.10,000/- before District Legal Services Authority, concerned, within a period of two weeks, from today onwards.

February 15, 2023
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No