

125.

2023:PHHC:165113

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

Civil Revision No.7469 of 2023

Date of decision: 12.12.2023

M/s Vijay Logistics Private Limited

.... Petitioner

Versus

Murti Devi and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Jagjeet Beniwal, Advocate, for the petitioner.

GURBIR SINGH, J.

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 22.03.2022 (Annexure P-2) passed by learned Civil Judge (Junior Division), Narwana, whereby the defence of petitioner-defendant No.1 (for short, “defendant No.1”) on account of non-filing of written statement has been struck off, and order dated 16.08.2023 (Annexure P-5) whereby application filed by defendant No.1 for permission to file written statement has been dismissed.

2. Briefly stated, respondent No.1-plaintiff (for short, “plaintiff”) has filed a suit for mandatory injunction directing the petitioner and proforma respondent (for short, “defendants”) to release all the service benefits, being the legal heir of deceased Shamsheer, who joined the petitioner-defendant No.1 as driver and died in an accident on 12.03.2020, but the defendants were not releasing the service benefits to the plaintiff.

After notice, though petitioner-defendant No.1 appeared but despite availing many opportunities including last opportunity, could not file written statement and, therefore, vide order dated 22.03.2022, its defence was struck off.

3. Learned counsel for the petitioner submits that it was due to communication gap between the petitioner, a Pune based company, and its counsel at Narwana and moreover, due to the ill-health of the counsel, written statement could not be filed. Though the petitioner moved an application dated 24.07.2023 for permission to file written statement, but vide order dated 16.08.2023, it was dismissed.

4. It is further submitted that the petitioner may be given only one opportunity to file written statement which is necessary for the just decision of the case.

5. I have heard the submissions of learned counsel for the petitioner and have gone through the paper book.

6. In the suit, the petitioner appeared on 05.04.2021 and thereafter, case could not be taken up due to Covid pandemic. On 12.08.2021, petitioner sought time to file written statement and last opportunity was granted. On 18.11.2021, again written statement could not be filed and cost of Rs.500/- was also imposed. Thereafter, on 22.03.2022 when no written statement was filed, the defence of the petitioner was struck off. So, it is clear that even after a lapse of about one year, petitioner could not file written statement. The parties are required to file written statement in a reasonable time. If after appearance, a party sleeps over the matter and the court grants one

adjournment or the other and still written statement is not filed, then the Court is justified in striking off the defence.

7. Moreover, striking off the defence does not mean that the petitioner has no right to appear and cross-examine the other party. Petitioner can make such arguments and submissions on law against the evidence which the other party brought to court. These are the valuable rights which are available to the petitioner as provided under the CPC. One must be vigilant enough about the court proceedings. A party cannot take the court for a ride.

8. The orders passed by the court below are well reasoned and this Court does not find any ground for interference. Accordingly, the present revision petition is dismissed.

(GURBIR SINGH)
JUDGE

December 12, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No