

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

140

2024:PHHC:050121

CR-2093-2024

Date of decision: 15.04.2024

SUPER PLASTRONICS PVT LTD

..Petitioner

Versus

INFOTEL BUSINESS SOLUTIONS LTD

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Abdul Shehbaz Thind, Advocate
for the petitioner.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the sole defendant in a commercial suit for recovery of Rs. 13,22,286/-, which is pending before the Commercial Court at Gurugram. The petitioner challenged the correctness of interlocutory order passed by the trial Court on 02.03.2024, whereby, the written statement filed by the petitioner has been struck off from the record on the ground that the same was filed beyond the period of 120 days as calculated from 04.02.2023.

2. The learned counsel representing the petitioner contends that on 24.07.2023, the written statement filed by the defendant was taken on record without any objection from the plaintiff. He draws the attention of the Court to the following order, which was passed by the trial Court on 24.07.2023:-

*“Shri Rajender Singh Thakur, Authorized representative appeared on behalf of defendant and resolution also filed. Written-statement along with supporting affidavit on behalf of defendant also filed. Copy given. Adjournment sought. Heard and allowed. Now, the case is adjourned to **21.09.2023** for alternate dispute resolution, submission of admission/denial documents and for framing of issues.”*

3. He further contends that in a commercial suit, notice was issued for 01.04.2023, which was not received back in any form, however, tracking

report suggested that item returned unclaimed. Hence, the Court decided to issue fresh notice for 06.05.2023, on which date, the defendant entered appearance and sought adjournment for filing the written statement. The hearing was adjourned to 24.07.2023, on the date, when the written statement was filed.

4. He submits that there is no delay on the part of defendant (petitioner herein).

5. This Court has considered the submissions of the learned counsel representing the petitioner.

6. It is evident that on 24.07.2023, the Court took the written statement on record without objection from the plaintiff. The case was fixed for further proceedings. In such circumstances, the opinion formed by the trial Court is erroneous. The rules or procedures are meant to advance the cause of justice and not to frustrate the same. Once, the written statement has been filed, there was no occasion for the trial Court, who strike it off from the record.

7. Keeping in view the aforesaid discussion, the present petition is allowed. The impugned order is set aside. The written statement, which has already been filed and has been taken on record shall form part of the record.

8. This order has been passed without issuing notice to the plaintiff, hence, it shall have liberty to file an application for recall of the order.

9. All the pending miscellaneous applications, if any, are also disposed of.

April 15th, 2024

(ANIL KSHETARPAL)
JUDGE

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Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*