

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

118

CR-2321-2024 (O&M)

Date of decision:19.04.2024

Dalip Kumar

... Petitioner

Vs.

M/s Hazur Singh & Grandsons & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Ms. Bandana Dogra, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by petitioner/defendants against the order dated 10.02.2023 passed by the Civil Judge (Jr. Division - 14), Jalandhar, vide which the defence of the petitioner/defendants was struck off.

2. Brief facts of the case for adjudication of the present revision petition are that the plaintiffs/respondents filed a suit for recovery of Rs.2,13,019/- (principle amount Rs.1,00,011/- plus interest of Rs.82,005/- @ 24% P.A. w.e.f. 09.01.2019 to 03.02.2021 on amount Rs.1,65,111/- and Rs.31,003/- @ 24% per annum w.e.f. 11.02.2021 to 27.05.2022 on an amount of Rs.1,00,011/-, total interest of Rs.1,13,008/-) along with *pendent lite* along with future interest till realization of the amount.

3. During the pendency of the suit, effective opportunities were provided to the defendant for filing of the written statement but he failed to file any written statement. Then the trial Court vide the impugned order

dated 10.02.2023 struck off the defence of the defendant (petitioner herein).

Hence, the petitioner/defendant has knocked the doors of this Court by way of filing of the present revision petition.

4. It has been contended by learned counsel for the petitioner that the petitioner has got information of his case only just before the last date of hearing and counsel for the petitioner had not informed him earlier regarding the status of the case and only due to this reason, the petitioner could not earlier file his written statement. He has submitted that in the interest of justice, one effective opportunity may be provided to the petitioner for filing of his written statement.

5. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

6. From the perusal of the impugned order, it transpires that defendant appeared in the case on 30.09.2022 and since then the case is pending for filing of the written statement. It has been mentioned in the impugned order that despite availing number of opportunities, the defendant failed to file his written statement. Even the statutory period of 90 days for filing of the written statement has also elapsed. It has been held in a catena of judgments that Proviso to Rule 1(8) CPC is directory and not mandatory in nature and in the justified circumstances, the time limit provided under statute for filing of the written statement in civil proceedings can be extended by the Court. Moreover, hyper technical approach is not to be adopted by the Court as procedural laws are meant for imparting substantial justice and not to obstruct the judicial proceedings. So, in the instant case also, though there is no infirmity in the impugned order, yet it will be

appropriate, if in the interest of justice, one effective opportunity is given to the petitioner to file his written statement to defend his case. The other party can be well compensated with costs. Therefore the trial Court is directed to grant one effective opportunity to the petitioner to file his written statement subject to payment of costs of Rs.8000/- to be paid to the respondents. Accordingly, the impugned order dated 10.02.2023 (Annexure P-1) is set aside and the revision petition is allowed in the aforesaid terms.

7. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

19.04.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |