



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Civil Revision No. 4354 of 2024 (O&M)
Date of Decision: 05.08.2024

M/s. Matharoo Cycles of India, Ludhiana
through its sole proprietor Daljit Singh

..... Petitioner

Versus

M/s. Mahaluxmi Alloys, Ludhiana through
its proprietor Neeraj Singla

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Gursimranjit Singh, Advocate
for the petitioner-defendant.

HARKESH MANUJA, J. (ORAL)

The petitioner-defendant, by way of present revision petition filed under Article 227 of the Constitution of India, seeks setting aside of an order dated 16.01.2024 passed by learned Civil Judge (Junior Division), Ludhiana (**hereinafter to be called as “trial Court”**), whereby its defence was struck off.

[2] Briefly stating, the respondent-plaintiff filed a suit for recovery of Rs. 3,90,888/- alongwith *pendente lite* and future interest @ 12% per annum against the petitioner-defendant.

[3] A perusal of the record shows that though numerous opportunities were afforded to the petitioner, however, no written statement was filed and resultantly, its defence was struck off vide order dated 16.01.2024 passed by the trial Court. Hence, the present revision petition.

[4] Impugning the aforesaid order dated 16.01.2024, learned counsel for the petitioner submits that in the absence of any defence being put-forth by way of filing written statement, the petitioner will not be able to defend the suit in an effective manner, which definitely will cause serious prejudice to its rights therein.

[5] I have heard learned counsel for the petitioner and considered the submissions made on behalf of the petitioner.

[6] In the humble opinion of this Court, in case the impugned order is allowed to stand and the petitioner is deprived of its right to file written statement, the petitioner will not be able to put-forth its defence to the case set up by the respondent-plaintiff in the plaint. Though, there appears to be lack of due diligence on the part of petitioner while contesting the suit, however, considering the fact that ever since the passing of impugned order, the proceedings in the suit have not moved too far, as such, it would be in the interest of justice to grant one effective opportunity to the petitioner, so as to file written statement in order to protect its substantial rights involved in the suit.

[7] Even the Hon'ble Supreme Court in ***“Kailash Vs. Nanhku and ors.”, 2005 (2) RCR (Civil) 379***, while considering the provisions of Order VIII Rule 1 CPC, has held that the same being part of procedural law and hence directory in nature. Still further, keeping in view the substantial justice, the Hon'ble Supreme Court under somewhat similar circumstances, in ***“Siddalingayya Vs. Gurulingappa and ors.”, 2018 (1) RCR (Civil) 543***, upheld the opportunity of filing written statement granted by the High Court. Even otherwise, upholding of the impugned order will cause serious

prejudice to the rights of petitioner as it will not be able to contest the case set up by the respondent.

[8] Accordingly by adopting a pragmatic approach; rather than being hyper-technical, the impugned order dated 16.01.2024 passed by the trial Court, is modified, **thereby granting one effective opportunity to the petitioner** so as to file its written statement on the date fixed before the trial Court, i.e. 04.09.2024, subject to payment of costs of Rs.20,000/-, which shall be deposited by the petitioner with the trial Court on the date fixed, to be disbursed in favour of respondent-plaintiff.

[9] **Disposed off** accordingly.

[10] It is made clear that in case, the respondent finds any mis-statement of fact on the part of petitioner, the respondent would be at liberty to approach this Court by moving an appropriate application in this regard.

[11] Keeping in view the nature of proceedings, the present petition is being decided without issuing notice to the respondent-plaintiff, lest it may delay the progress of suit instituted at its instance and may also burden the respondent with unnecessary costs towards litigation expenses.

[12] Pending miscellaneous application(s), if any, shall also stand disposed off.

August 05, 2024
'dk kamra'

(HARKESH MANUJA)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No