



CR-3202-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-3202-2024 (O&M)
Date of decision:29.05.2024

Akhil Agrwal

... Petitioner

Vs.

Priyanka

... Respondent

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Raj Kumar Rathore, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the plaintiff/petitioner against the order dated 20.10.2023 (Annexure P-5) passed in Civil Suit No.1449 of 2022 titled as 'Akhil Agrwal Vs. Priyanka' by the Civil Judge (Jr. Division), Kurukshetra, vide which the application filed by the petitioner/plaintiff under Order 8 Rule 10 CPC was dismissed and the written statement filed by the respondent/defendant was permitted to be taken on record.

2. Brief facts leading to filing of the present revision petition as per petitioner are that the plaintiff filed a suit for recovery of Rs.5 lakhs before the Civil Judge, Jr. Division, Kurukshetra on 15.10.2022. The matter was adjourned to 06.02.2023 for which date summons were ordered to be issued to the respondent. Respondent/defendant appeared through counsel on 06.02.2023 and then the case was adjourned to

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09.03.2023 for filing of Power of Attorney and written statement on behalf of the defendant. On 09.03.2023, fresh memo of appearance was filed on behalf of the defendant and matter was adjourned to 24.04.2023 for filing of the Power of Attorney and written statement on behalf of the defendant and the matter was again adjourned to 14.07.2023, 05.08.2023, 11.09.2023, and then to 20.10.2023. On 20.10.2023 plaintiff filed an application for striking of the defence of the respondent/defendant on the ground that statutory period of 90 days from the date of service and appearance before the trial Court which is provided in Order 8 Rule 1 CPC had lapsed. On 20.10.2023 itself, respondent/defendant filed the written statement and the aforesaid application filed by the petitioner/plaintiff before the trial Court was dismissed vide the impugned order dated 20.10.2023 (Annexure P-5). Hence, the revision petitioner/plaintiff has knocked the doors of this Court by way of filing the instant revision petition.

3. Learned counsel for the petitioner has contended that the trial Court has failed to appreciate the factual as well as legal aspect of the case. The delay in filing of the written statement was deliberate and intentional. He has further contended that it is a well settled law that a party who fails to file written statement within the time period of 30 days from service of summons, could be given extension upto 90 days, but it shall be subject to the reasons recorded by the Court and the reasons mentioned in the application for condonation of delay. But when such



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delay has not been explained by the respondent/defendant in the present case then relief of extension has been wrongly granted by the trial Court without any convincing and cogent reasons for the same.

4. I have heard learned counsel for the petitioner at length and have perused the record.

5. Copy of zimni order dated 11.09.2023 passed by the trial Court has been produced on record vide which order, the last opportunity was granted to the defendant by the trial Court for filing of written statement on 20.10.2023. Perusal of the impugned order reveals that on 20.10.2023, in compliance of the order dated 11.09.2023, the written statement was filed by the defendant/respondent. As the written statement had already been filed on the said date, so the application filed by the petitioner before the trial Court for striking of defence was rightly dismissed.

6. Otherwise also, 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.

7. Thus keeping in view the above, there being no illegality or infirmity in the impugned order, no interference therewith is called for



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while exercising the revisional jurisdiction. The present revision petition being bereft of any merits stands dismissed.

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

29.05.2024

harjeet

(SUKHVINDER KAUR)
JUDGE

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