

2024:PHHC:088704



S. No.125

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3800 of 2024

Date of Decision:16.07.2024

Rajinder Prasad Yadav

.....Petitioner

Vs.

Bhagwan Dass

.....Respondent

CORAM:- HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Sachin Kalia, Advocate for the petitioner.

DEEPAK GUPTA, J. (Oral)

By way of this revision, petitioner assails order dated 11.03.2024 (Annexure P.4) passed by Court of learned Civil Judge (Junior Division), Chandigarh during the proceedings of a Civil Suit No.2053 of 2021 titled “Bhagwan Dass Vs. Rajinder Parsad Yadav” whereby the defence of the defendant (petitioner herein) has been struck off on account of not filing of the written statement.

Learned counsel contends that initially suit for recovery under Order XXXVII CPC was filed in November, 2021. However, plaintiff (respondent herein) made a statement on 20.09.2023 to treat the suit as an ordinary suit and the matter was adjourned. Learned counsel contends that written statement could not be filed as the petitioner- defendant was under the impression that application for leave to defend was still pending.

After hearing learned counsel for the petitioner, this Court does not find any merit in this petition. Order dated 20.09.2023 (Annexure P.2) passed by the learned trial Court would reveal that on that day, statement was suffered by the



plaintiff that his suit be treated as an ordinary suit. The Court directed accordingly and adjourned the case to 17.10.2023 for filing of the written statement subject to last opportunity. This order was passed in the presence of Shri Jarnail Singh, Advocate, who was representing the defendant (petitioner herein). However, as is evident, defendant failed to file the written statement on the adjourned date of 17.10.2023 and also on the subsequent dates and compelled by the circumstances, the trial Court struck off the defence by way of the impugned order dated 11.03.2024 (Annexure P.4) by observing that despite availing several effective opportunities including last opportunity, defendant had failed to file the written statement and so, there was no justification to provide another opportunity.

This Court does not find any illegality or perversity in the impugned order. It is the defendant (petitioner herein), who himself is at fault in not filing written statement despite numerous opportunities provided to him to file the written statement. It does not lie in the mouth of the petitioner to contend that the order dated 20.09.2023 was not in his notice, as the said order was passed in presence of the counsel for the defendant (petitioner herein).

Dismissed.

July 16, 2024
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(DEEPAK GUPTA)
JUDGE

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