

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

2024:PHHC:044712

CR-2898-2021

Date of decision: 03.04.2024

KULWINDER KAUR BHANGOO

..Petitioner

Versus

NIRMAL SINGH AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Ashwani Sharma, Advocate
for the petitioner.

Mr. Kunwar Ranjan, Advocate
for respondents No. 4 & 6.

ANIL KSHETARPAL, J(Oral)

1. The petitioner herein is the plaintiff in a suit for grant of decree of declaration that she is owner in possession of all the property left behind by her deceased husband. She has also sought various other reliefs. The defendants while contesting the suit have filed counter claim. The trial Court is seized of the matter. On account of failure to file reply to the counter claim, the plaintiff's defence in the counter claim was struck off. Her application for recall of the aforesaid order has also been dismissed.

2. The learned counsel representing the petitioner submits that reply to the counter claim has already been filed, which is part of the record but the Court is refusing to take into consideration.

3. On the other hand, the learned counsel representing the defendants (counter claimants) submits that there has been huge delay on the part of the plaintiff to file reply to the counter claim.

4. Basically, the defence of the plaintiff, who is respondent in the counter claim, has been struck off on account of default in filing the reply to

the counter claim. In **Salem Bar Association, Tamil Nadu Vs. Union of**

India, 2002(4) RCR (Civil) 786, the Supreme Court has held that the period of 90 days is not mandatory and directory in any case if the reply to the counter claim has already been filed and the case is fixed for defendants evidence.

5. Keeping in view the aforesaid facts, the reply to the counter claim shall be taken into account while deciding the main case, subject to payment of cost of Rs.500/- to the other party.

6. With these observations, the present petition is disposed of.

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

April 03rd, 2024
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No