



CR-5046-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

(126)

CR-5046-2024

Date of Decision: - 03.09.2024

Tejpal

....Petitioner

Versus

Kusum Lata

.....Respondent

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Mohan Singh Rana, Advocate,  
for the petitioner.

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VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 10.05.2023 (Annexure P-2) and impugned order dated 14.05.2024 (Annexure P-5) passed by the Civil Judge (Junior Division), Palwal in Civil Suit No.929 of 2022, titled 'Kusum Lata Vs. Tejpal' (Annexure P-1) whereby defence of the petitioner-defendant has been struck off and the application for setting aside the order dated 10.05.2023 (Annexure P-2) has also been dismissed.

2. Brief facts of the case are that the respondent had filed a suit for possession by way of specific performance of the Contract/agreement dated 31.05.2021 in the year 2022. Vide the impugned order dated 10.05.2023 (Annexure P-2), after noticing the fact that the petitioner has not filed reply despite several opportunities including the last opportunity,

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the defence of the petitioner/defendant was struck off and the case was adjourned to 15.09.2023 for the plaintiff's evidence at their own responsibility. The zimni orders prior to 10.05.2023 have not been annexed along with the present petition. After a period of more than ten months from the passing of the said order, the petitioner had filed an application dated 12.03.2024 (Annexure P-3) for setting aside the order dated 10.05.2023 (Annexure P-2). Apart from the fact that the application was much delayed, no plausible reason was given as to why the written statement was not filed in spite of several opportunities given. Reply was filed to the said application by the respondent, opposing the same.

3. The trial Court, vide order dated 14.05.2024 (Annexure P-5), dismissed the said application by observing that the review application was not maintainable and at any rate, the defence of the defendant/petitioner was struck off since the petitioner had not filed the reply in spite of several opportunities given. The present revision petition has been filed challenging the order dated 14.05.2024 (Annexure P-5) and has been drafted on 27.08.2024 i.e. after a period of more than three months from the date of passing of the impugned order dated 14.05.2024.

4. Learned counsel for the petitioner has submitted that one opportunity be granted to the petitioner to file the written statement and the impugned orders dated 10.05.2023 (Annexure P-2) and dated 14.05.2024 (Annexure P-5) be set aside.

5. This Court has heard learned counsel for the petitioner and has perused the paper-book.

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6. It is not in dispute that the suit was filed by the respondent for possession by way of specific performance of the contract/agreement dated 31.05.2021 on 09.08.2022. Vide order dated 10.05.2023, the defence of the petitioner was struck off after noticing the fact that despite several opportunities including the last opportunity, the defendant had not filed the written statement and the case was fixed for 15.09.2023 for the plaintiff's evidence. The zimni orders prior to 10.05.2023 have not been annexed along with the present petition. No revision petition against the order dated 10.05.2023 (Annexure P-2) was immediately filed, rather, after a period of more than ten months, an application dated 12.03.2024 (Annexure P-3) was filed for setting aside the order dated 10.05.2023 (Annexure P-2). No plausible reason was given in the application for non-filing of the written statement and no reason was given for the period of delay of more than ten months in filing the said application from the order dated 10.05.2023 (Annexure P-2). The trial Court has rightly dismissed the said application vide order dated 14.05.2024 (Annexure P-5) by holding the same to be not maintainable. It has not been shown to this Court as to how the application dated 12.03.2024 was maintainable. Moreover, even after the impugned order dated 14.05.2024 was passed, the present revision petition has not been filed immediately thereafter and the same was drafted on 27.08.2024 and has been filed thereafter to be listed in September, 2024. A period of more than one year and three months has elapsed from the date of passing of the order dated 10.05.2023 and no zimni order has been annexed to show the stage of the

present case.

7. In such circumstances, it is apparent that the petitioner has made every effort to delay the proceedings in the civil suit for possession by way of specific performance filed by the respondent. The impugned orders (Annexures P-2 and P-5) are legal and do not call for any interference and the present civil revision petition being meritless, deserves to be dismissed and is accordingly dismissed.

September 03, 2024  
naresh.k

( VIKAS BAHL )  
JUDGE

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| Whether reasoned/speaking? | Yes |
| Whether reportable?        | Yes |