



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

129

CR-5676-2024(O&M)

Decided on: 26.09.2024

Joga Singh and others**...Petitioners****Versus****M/s Aegis Value Limited Company and others****....Respondents****CORAM: HON'BLE MRS JUSTICE RITU TAGORE**

Present: Mr. Rajinder Sharma, Advocate
for the petitioners.

RITU TAGORE, J.

1. This revision is against the order dated 05.07.2023 (Annexure P-14), passed by Learned Civil Judge (Junior Division), Karnal whereby the defence of the petitioners/defendants No.56, 57, 58 and 61 has been struck off in a suit for partition and permanent injunction titled 'M/s Aegis Value Homes Limited Company Vs. M/s Tulsi Agencies Pvt. Ltd. and others' (Annexure P-1).

2. Learned counsel representing the petitioners submits that limited prayer of the petitioners/defendants is to permit them to adopt the written statement of defendant No.2 (Annexure P-13).



3. Considering the limited prayer made in this revision petition, notice to the contesting respondent is dispensed with at this stage.

4. It is a matter of record that respondent No.1/plaintiff instituted a civil suit for partition with consequential relief of permanent injunction (Annexure P-1) against the present petitioners and other respondents (defendants No.2 to 58). The petitioners/defendants, despite availing number of opportunities, failed to present their written statement, leading to striking of their defence.

5. A careful reading of the language of Order 8 Rule 1, Civil Procedure Code, 1908 (hereinafter referred to as 'CPC') reveals that it imposes an obligation on the defendant(s) to file the written statement within 30 days from the date of service of summons on him/her/them or within the extended time falling within 90 days. It is trite law that all rules of procedure are the handmaid of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. In ***Bharat Kalra Vs. Raj Kishan Chabra, 2022 (3) Apex Court Judgements (SC) 598*** Hon'ble the Supreme Court observed as under:-

*"3. Admittedly, the suit for injunction filed by the plaintiff is not the one which is governed by the Commercial Court Act, 2015. Therefore, the time limit for filing of the written statement under Order VIII Rule 1 of CPC is not mandatory in view of the judgment of this Court reported as '**Kailash v. Nankhu and others', (2005) 4 SCC 480.***

4. In view of aforesaid judgment, we find that the delay in filing of the written statement could very well be compensated with costs but denying the benefit of filing of the written statement is unreasonable.

5. Consequently, we allow the present appeal. The order passed by the High Court is set aside. The written statement already filed is taken on record."



6. It is well established that the learned Court should adopt a liberal approach and rights of the parties should be adjudicated on the merits of the controversy, rather than being thwarted by rigid technicalities. Furthermore, learned counsel on behalf of the petitioners, states that the petitioners want to adopt the written statement of defendant No.2 if given the opportunity. It is also an established practice of law that the delay can always be rectified by imposing costs.

7. As such, in these circumstances to do complete justice between the parties, I believe that an opportunity be granted to the petitioners to present their written statement by adopting the written statement (Annexure P-13) of defendant No.2 before the learned trial Court. This will enable them to respond to the assertions and allegations raised by the respondent No.1 (plaintiff) against them. Accordingly, impugned order dated 05.07.2023 (Annexure P-14) is set aside qua the petitioners, subject to payment of Rs.20,000/- as costs payable by the petitioners to respondent No.1 (plaintiff)

8. Petitioners are directed to appear before the learned trial Court on the due date of hearing as fixed by the learned trial Court and make payment of costs and make their statement of adopting the written statement of defendant No.2 accordingly.

9. It is made clear that in case of default, this order shall automatically be vacated.

10. Respondent No.1 if not satisfied with this order, may move an application for recalling of this order within 30 days.



11. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

26.09.2024
Rimpal

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