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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-805-2025 (O & M)

Date of Decision : 26.11.2025

Senior Manager, Federal Bank Ltd., Branch Ferozepur and ... Petitioners
Another

Versus

Tahil Singh ... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Rahul Arora, for the petitioners.

None for the respondent.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed by the defendant-petitioners challenging the order dated 16.10.2024 whereby the defence of the defendant-petitioners was struck off as well as the order dated 12.11.2024 whereby the application for recalling the order dated 16.10.2024 was dismissed.

2. None has put in appearance on behalf of the respondent, despite service.

3. The defence of the defendant-petitioners herein was struck off vide order dated 16.10.2024 for not filing the written statement despite the period as prescribed under the Code of Civil Procedure, 1908 having elapsed. Thereafter, an application was filed for recalling the order dated 16.10.2024, which was also dismissed vide order dated 12.11.2024.

4. Learned counsel for the defendant-petitioners has contended that

given one opportunity the defendant-petitioners would file the written statement and that they are also willing to compensate the plaintiff-respondent by way of costs.

5. Heard.

6. On 28.02.2025 none had put in appearance on behalf of the plaintiff-respondent, despite service, and the case was adjourned to 28.04.2025. Yet again on 28.04.2025 none appeared on behalf of the plaintiff-respondent, despite service. On 29.07.2025 the case was adjourned by order to today. Today again none has put in appearance on behalf of the plaintiff-respondent.

7. Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D) through proposed LR Ms. Rohini [(2020) RCR (Civil) 807]** has held as under :

“ ANALYSIS & CONCLUSION

11. At the outset, it must be noted that the Commercial Courts Act, 2015 through Section 16 has amended the CPC in its application to commercial disputes to provide as follows:

“ 16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes - (1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a specified value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.”

12. Hence, it is clear that post coming into force of the aforesaid Act, there are two regimes of civil procedure. Whereas commercial disputes [as defined under Section 2(c) of the Commercial Courts Act, 2015] are governed by the CPC as amended by Section 16 of the said Act; all other noncommercial disputes fall within the ambit of the unamended (or original) provisions of CPC.

13. The judgment of Oku Tech (supra) relied upon the learned Single Judge is no doubt good law, as recently upheld by this Court in SCG Contracts India Pvt. Ltd. v. KS Chamankar Infrastructure Pvt. Ltd., AIR 2019 SC 2691, but its ratio concerning the mandatory nature of the timeline prescribed for filing of written statement and the lack of discretion with Courts to condone any delay is applicable only to commercial disputes, as the judgment was undoubtedly rendered in the context of a commercial dispute qua the amended Order VIII Rule 1 CPC.

14. As regard the timeline for filing of written statement in a non-commercial dispute, the observations of this Court in a catena of decisions, most recently in Atcom Technologies Ltd. v. Y.A. Chunawala and Co., (2018) 6 SCC 639 holds the field. Unamended Order VIII Rule I, CPC continues to be directory and does not do away with the inherent discretion of Courts to condone certain delays.”

8. In view of the law laid down in the above referred case and in order to do complete justice between the parties and keeping in view the fact that the civil suit is for rendition of accounts, this Court deems it appropriate to grant one opportunity to the defendant-petitioners to file the written statement on the next date of hearing i.e. 16.12.2025 subject to payment of ₹30,000/- as costs to be paid to the plaintiff-respondent. The payment of costs shall be a condition precedent for filing the written statement. It is made clear that in case the written statement is not filed within the time granted and the costs are not paid, the present revision petition shall be deemed to having been dismissed.

9. The revision petition is disposed off in the above terms. Pending applications, if any, also stand disposed off.

26.11.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO