
(2014) 05 P&H CK 0135
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 3707 of 2014

Ganesh Arora

APPELLANT

Vs

Lt. Col. Ravi Kumar Sawarn and Another

RESPONDENT

Date of Decision : 26-05-2014

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 7 Rule 11, Order 9 Rule 7

Citation : (2014) 05 P&H CK 0135

Hon'ble Judges : Rajiv Narain Raina, J

Bench : Single Bench

Advocate : Aayush Gupta, Advocate for the Appellant

Final Decision : Disposed Off

Judgement

Rajiv Narain Raina, J.—Present revision petition is directed against the order passed by trial court whereby defence of defendant-petitioner has been struck off.

2. Brief facts of the case are that the plaintiffs filed a suit for recovery of Rs. 10 lacs against the petitioner-defendant. After notice of the suit was issued, petitioner-defendant moved an application under O. 7 RI. 11 CPC for rejection of the plaint on the ground that trial Court at Panchkula has no jurisdiction to try this suit. According to the petitioner, that application under O. 7 RI. 11 CPC was dismissed on 02.08.2010. The petitioner again moved an application for review of that order. However, review application was dismissed by the trial Court on 18.01.2014 and the petitioner was given last opportunity to file the written statement. On 10.02.2014, the petitioner could not file the written statement and prayed for an adjournment. However, the trial Court passed the impugned order striking off the defence and the case was fixed for evidence of the plaintiff.

3. On 11.04.2014, the counsel for the defendant could not attend the hearing, on which date the trial Court had passed two orders one appointing a Commissioner to record the statements of the witnesses and the second proceeding the defendant ex-parte & examination of two ex-parte witnesses of the plaintiff.

4. On 30.04.2014, the petitioner-defendant moved an application under O. 9 RI. 7 CPC for setting aside ex-parte order dated 11.04.2014 and for permission to file the written statement. The trial Court set aside the ex-parte order and the evidence of one witness of the plaintiff was also recorded on that day. However, the defendant was not permitted to file the written statement.

5. Learned counsel for the petitioner has submitted that it was a case of great hardship. In case petitioner is not allowed to put up his defence, he will suffer an irreparable loss. This was happened due to communication gap as his counsel could not appear before the trial Court as he was from New Delhi. The filing of written statement by the petitioner shall not cause any prejudice to the respondents, who can be compensated with costs for causing inconvenience at the hands of the petitioner.

6. Resultantly, the revision is allowed; the impugned order is set aside and the petitioner is granted one opportunity for filing written statement on the next date of hearing i.e. 28.05.2014 on payment of costs of Rs. 50,000/- to the respondents that shall be a condition precedent for further prosecution of this order. If the costs are not paid to the respondents, in that event, the petitioner shall not be granted opportunity to file the written statement.

7. This revision has been disposed of without notice to the respondents with a view to avoid delay and expense in view of the nature of the order that has been passed.

8. A copy of this order be supplied to the learned counsel for the petitioner under the signatures of the Bench Secretary of this Court.