
(1989) 08 P&H CK 0160
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 1992 of 1989

Smt. Bhagwan kaur

APPELLANT

Vs

State Bank of Patiala and another

RESPONDENT

Date of Decision : 11-08-1989

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 10 Rule 1, Order 10 Rule 2, Order 10 Rule 4

Citation : (1989) 08 P&H CK 0160

Hon'ble Judges : J.V. Gupta, J

Bench : Single Bench

Advocate : Amrik Singh Kalra, for the Appellant;

Judgement

J.V. Gupta, J.—This revision petition is directed against the order of the trial Court, dated April 28, 1989 whereby the application filed on behalf of the Defendant-Petitioner for recalling the earlier order, dated February 16, 1989, whereby the defence was struck off, was dismissed.

2. The State Bank of Patiala filed this suit on April 20, 1987. After the written statement was filed, Defendant No. 2--Smt. Bhagwan Kaur was directed to appear in Court for recording her statement under Order 10, Rules 1 and 2 Code of Civil Procedure. Many opportunity were given to her but when she failed to show any just reason for not appearing in the Court, the trial Court struck down the defence vide order dated February 16, 1989. The application was filed for recalling the said order which was dismissed by the impugned order dated April 28, 1989. According to the learned trial Court, the application is totally mala fide without any merit.

3. Since the suit is for the recovery of heavy amount, the tendency to delay the proceedings on the part of the Defendants is apparent Under Order 10, Rule 4, Code of Civil Procedure, if a party fails without lawful excuse to appear in person on the day so appointed, the Court may pronounce judgment against him, or make such order in relation to the suit as it thinks fit. However, taking into

consideration the facts and circumstances of the case, the Defendant is allowed one more opportunity to appear in the trial Court for her statement on payment of Rs. 1,000/- as costs. She has been directed to appear in the trial Court on August 17, 1989. On that day, if the costs are paid, the trial Court may fix a date for recording her statement or may record the same on that date, if possible. In case, the Defendant fails to appear on August 17, 1989, and does not pay the costs, this revision petition will stand dismissed. However, in case the trial Court gives another date for recording the statement of the Defendant, the Petitioner will appear on that date positively and if she fails to appear, then again the earlier order, dated February 16, 1989, will stand. In case, after the recording of statement of the Defendant under Order 10, Rules 1 and 2, Code of Civil Procedure, the suit proceeds, the Defendant will lead entire evidence at her own responsibility for which dasti summons may be given to her, if so desired, as contemplated under Order 16, Rule 7-A, Code of Civil Procedure.

4. The petition is disposed of accordingly.