
(1992) 03 P&H CK 0080

In the Punjab And Haryana At Chandigarh

Case No : Civil Revision No. 3316 of 1991 and C.M. No. 8303-CII of 1991

Smt. Kasturi Devi

APPELLANT

Vs

Steel Sales Corporation and Others

RESPONDENT

Date of Decision : 17-03-1992

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 12 Rule 2A, Order 12 Rule 3A, 115
Constitution of India, 1950 — Article 227

Citation : (1992) 101 PLR 649

Hon'ble Judges : J.B. Garg, J

Bench : Single Bench

Advocate : Suresh Amba, for the Appellant; J.C. Nagpal, for the Respondent

Judgement

J.B. Garg, J.—M/s Steel Corporation, Mandi Gobindgarh, have instituted a suit for recovery of money against as many as five defendants. Kasturi Devi wife of Prem Chand, resident of Wazirpur Industrial Area, Delhi is defendant No. 2 and appears to be the contesting defendant. The learned Subordinate Judge I Class, Amloh, passed an order requiring Kasturi Devi defendant No. 2 to appear in the Court for the purposes of admission or denial but she did not appear in Court on 18-7-1991 and again she did not appear on 22-8-1991 on account of her alleged illness. On the third date i.e. 13-9-1991 an order was passed striking off her defence. This has been challenged here in this revision.

2. The procedure relating to the admission and denial finds mention in Order XII of the Code of Civil Procedure, 1908. The rules 2-A and 3-A thereof are reproduced as under:-

"2-A. Document to be deemed to be admitted if not denied after service of notice to admit documents:-

(1) Every document which a party is called upon to admit, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of that party or in his reply to the notice to admit documents, shall be

deemed to be admitted except as against a person under a disability; Provided that the Court may, in its discretion and for reasons to be recorded, require any document so admitted to be proved, otherwise than by such admission.

(2) Where a party unreasonably neglects or refuses to admit a document after the service on him of the notice to admit documents, the Court may direct him to pay costs to the other party by way of compensation.

(3) Form of notice.-A notice to admit documents shall be in Form No. 9 in Appendix C, with such variations as circumstances may require.

(3-A) Power of Court to record admission:-Notwithstanding that no notice to admit documents has been given under Rule 2, the Court may, at any stage of the proceedings before it, of its own motion, call upon any party to admit any document and shall in such a case, record whether the party admits or refuses or neglects to admit such document."

A perusal of the aforesaid rules would go to show that if there is unreasonable neglect on the part of a party to admit a document alleged to have been written or signed by it, it does not empower the Court to strike off its defence in as much as Order XII only provides a mode for quicker proof of some of the documents relies upon by a party. The contention of the learned counsel for the respondent that the Court wanted to examine the defendant under Order X rule 4 of the CPC on the day in-question is not acceptable in the circumstances of the case. The result is that in the circumstances of the case the impugned order dated 13-9-1991, is, hereby, set-aside. The parties shall appear in the trial-court on 27-4-1992 and the suit shall proceed from the stage it was fixed prior to the passing of the impugned order.