
(2006) 02 P&H CK 0139
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 620 of 2006

State of Haryana and Others

APPELLANT

Vs

Karamjit Singh and Others

RESPONDENT

Date of Decision : 02-02-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 8 Rule 1

Citation : (2006) 2 CivCC 373 : (2006) 143 PLR 839 : (2006) 2 RCR(Civil) 418

Hon'ble Judges : Jasbir Singh, J

Bench : Single Bench

Advocate : M.S. Sindhu, D.A.G, for the Appellant;

Judgement

Jasbir Singh, J.—Vide order, under challenge, defence of the petitioners was struck off for want of filing of written statement. Counsel states that due to some official's lapse, written statement was not prepared in time. It has further been stated that now the written statement is ready and the petitioners need only one opportunity to file the same in Court. Rules and procedure are handmaid of justice to enhance the same and not to subvert it.

2. Their Lordships of Supreme Court in S. Amarjit Singh Kalra (dead) by Lrs. and Others and Smt. Ram Piari (dead) by L.Rs. and Others Vs. Smt. Pramod Gupta (dead) by Lrs. and Others, , in para 26 of the judgment had opined as under :

Laws of procedure are meant to regulate effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not meant to hamper the cause of justice or sanctify miscarriage of justice.

3. View extracted above, was reiterated by their Lordships of Supreme Court in N. Balaji Vs. Virendra Singh and Others, , wherein after noting ratio of the judgment, referred to above, in para 10 of the judgment, it was observed that the procedure would not be used to discourage the substantial and effective

justice but would be so construed as to advance the cause of justice.

4. Furthermore, in *Kailash Vs. Nanhku and Others*, and *Smt. Rani Kusum Vs. Smt. Kanchan Devi and Others*, , it has been held by their Lordships of Supreme Court that provisions of Order VIII Rule 1 of C.P.C. are directory and not mandatory in nature.

5. In view of ratio of judgments referred to above and facts of this case, revision petition is allowed, order under challenge, is set aside and the trial Court is directed to give one more opportunity to the petitioners to put on record their written statement. Petitioners are directed to move an application for the said purpose within 15 days from today. Order passed is subject to payment of Rs. 5000/-, as costs. Collector, Yamuna Nagar is directed to recover the said amount from the officer, on account of whose negligence, written statement was not filed in Court, in time. It is made clear that if the petitioners fail to avail the opportunity granted by this Court, the revision petition shall be deemed to have been dismissed.

6. At this stage, no notice is being issued to the opposite party, because if the respondents are summoned to contest this litigation, it may involve huge expenditure and unnecessary harassment and delay of the proceedings. This view finds support from the judgment of the Division Bench of this Court in C.W.P. No. 9563 of 2002, (*Batata Machine Tools Workshop Co-op v. Presiding Officer, Labour Court, Gurdaspur*), rendered on June 27, 2002, in which it was held as under:

We are conscious of the fact that the instant order is detrimental to the interest of the respondent-workman. We are also conscious of the fact that no notice has been given to the respondent-workman before the instant order has been passed. The reason for not issuing notice to the respondent-workman is to ensure that he does not have to incur unnecessary expenses in engaging counsel to appear on his behalf in this Court. The instant order by which the present petition is being disposed of fully protects the interest of the respondent-workman inasmuch as the amount determined by the Labour Court, Gurdaspur by its order dated 22.5.2002 has been required to be deposited by the petitioner-Management before the Labour Court/Labour-cum-Conciliation Officer, Gurdaspur.

7. Liberty is granted to the respondent to get this revision petition revived if they feel dissatisfied with this order.

8. Copy of the order be given dasti on payment of usual charges.