

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH.

C.R. No. 945 of 2012 (O&M)

Date of Decision: February 14, 2012

Sewa Singh

.....Petitioner

Vs.

Smt. Surjit Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Rajesh Gupta, Advocate  
for the petitioner.

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**M.M.S. BEDI, J. (ORAL)**

This revision petition has been preferred by defendant invoking the jurisdiction of this Court under Article 227 of the Constitution of India challenging the order dated February 6, 2012 which reads as follows:-

“Written statement has not been filed. Rather than filing the written statement despite specific directions, an application u/o 11 R.1 CPC for leave of the Court to deliver interrogatories has been filed. Since the pleadings have not been completed, the question of

entertaining this application does not arise. In the interest of justice, application is kept pending till the completion of pleadings. Last opportunity for filing of written statement failing which stay shall be granted in favour of the plaintiff for 13.2.12. No further adjournment shall be granted for the same.”

A perusal of the above order indicates that an application for interrogatories filed by the defendant- petitioner under Order 11 Rule 1 CPC has not been entertained observing that in view of the pleadings having not been completed, the same is kept pending till completion of pleadings. A conditional order appears to have been passed that in case the written statement is not filed, stay shall be granted in favour of the plaintiff. The observations made by the learned trial Judge appear to be stringent and contrary to the provisions of CPC, as in view of the amendment of CPC w.e.f. July 1, 2002, it is mandatory for a Court to decide an application for leave to deliver interrogatories within a period of seven days from the date of filing of the said application. There is no provision warranting that stay could be granted merely for non-filing of the written statement. The parameters of granting interim injunction are well established.

After considering the facts and circumstances of the case, it appears that the defendant- petitioner wants to delay the filing of written statement on the pretext that an application for interrogatories under Order 11 Rule 4 CPC has been submitted before the trial Court. I have gone through the interrogatories. The interrogatories only seek to get a reply

from the plaintiff- wife pertaining to an earlier application having been filed by her under the Domestic Violence Act, she being owner of properties mentioned in para Nos. 2 to 5 of the interrogatories. There is nothing mentioned in the interrogatories which could create an obstacle in filing of the written statement. Defendant- petitioner can conveniently take up a plea regarding plaintiff- respondent being owner of particular property disentitling her to any relief under Hindu Adoption and Maintenance Act while contesting her claim of permanent injunction. Besides this, obligation to file written statement is not subject to the adjudication of the application for interrogatories. There is an independent obligation on the part of the Court to decide the interrogatories within a period of seven days as per provisions of Order 11 Rule 2 CPC. The revision petition appears to be premature as no petition lies against an order giving defendant last opportunity to file written statement by a particular date. No prejudice seems to have been caused to the petitioner warranting interference in the revisional jurisdiction under Article 227 of the Constitution of India. The defendant- petitioner is expected to file written statement by next date of hearing i.e. February 22, 2012 and claim his right for adjudication of interrogatories in accordance with law. It will be open to the trial Court to deal with the interrogatories as per provisions of Order 11 CPC.

Dismissed.

February 14, 2012  
sanjay

(M.M.S.BEDI)  
JUDGE