

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**COCP-2488-2023 (O&M)
Date of decision: 22.08.2023**

Som Parkash

...Petitioner

Versus

Anuradha, PCS, Additional Civil Judge, Nabha and anr.

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Saurabh Kaushik, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J.

The petitioner alleges disobedience of the order dated 29.11.2018 passed in CR-8098-2018 titled as Som Parkash Vs. Mahandev Singh.

In order to find out the correct facts, record of aforesaid revision petition and CR-8092-2018 is summoned.

Brief facts of the case are that respondent No.2 Mahandev Singh filed a suit under Order XXXVII CPC for recovery of Rs.6.00 lacs as cash loan against pronote and receipt. The petitioner-defendant had filed an application for leave to defend, which was allowed on 08.10.2018 subject to furnishing surety bonds equivalent to the suit amount. Thereafter, the

petitioner filed the aforesaid civil revision, in which, while issuing notice of motion, following order was passed on 29.11.2018: -

“Learned counsel contends that despite the learned trial Court having come to the conclusion that there were sufficient grounds to grant an opportunity to the petitioner to enable him to put forward his defence and contest the claim, yet unreasonable condition of furnishing surety bonds equivalent to the suit amount had been imposed without there being any basis for the same.

Notice of motion for final disposal for 14.12.2018.

Dasti only.

Liberty to effect service upon the respondent through counsel representing him before the learned trial Court.

In the meantime, proceedings listed before the learned trial Court be deferred to a date beyond the date fixed by this Court.

A copy of this order be placed on the file of connected case.”

A perusal of the record of the civil revision would show that it is pending since 2018 and was adjourned from time to time either on account of non-appearance on behalf of the petitioner or on the request made by the petitioner or on account of the fact that the Court time is over. After 14.12.2018, interim order was not specifically continued, except an order dated 08.04.2019 and thereafter, again there is no extension of interim order.

Learned counsel for the petitioner submits that in the meantime, proceedings before the trial Court continued and the petitioner-defendant was

participating in the suit by way of filing the written statement and leading the evidence, while appearing himself as DW1. Present contempt petition has been filed with the allegations that despite the order dated 29.11.2018 passed in aforesaid civil revision, directing the trial Court to adjourn the case beyond the date fixed before this Court, the trial Court proceeded further and finally decided the suit vide judgment and decree dated 28.02.2022 (Annexure P-37). It is further submitted that thus, the Civil Judge has committed the contempt of Court.

After hearing learned counsel for the petitioner, this Court finds that no willful disobedience is made out in this case, for the following reasons: -

- (a) The interim order dated 29.11.2018 was not ordered to be continue after 2018 i.e. for a period of four years and in the intervening period, the petitioner-defendant himself was participating in the suit. A perusal of the final judgment dated 28.02.2022, vide which suit of plaintiff-respondent No.2 was decreed, would reflect that three issues were framed, out of which, onus of issue No.3 i.e. whether the suit is not maintainable and issue No.4 i.e. whether the pronote and receipt are result of fraud and misrepresentation, was on the defendant-petitioner, who appeared himself as DW1 and led evidence. The conduct of the petitioner reflects that he never insisted upon the

trial Court to adjourn the case, as he knew that there is no extension of stay order passed in the aforesaid civil revision.

- (b) As noticed above, interim order was passed on 29.11.2018 and was extended once on 08.04.2019 and thereafter, it was never extended and the petitioner-defendant was participating in the proceedings, which is clearly reflected from the zimni orders passed by the trial Court (Annexures P-3 to P-36). A perusal of all these orders would show that Mr. S.S. Nokwal, Advocate, counsel for the defendant-petitioner was actively participating in proceedings of the suit; was filing applications/pleadings; was cross-examining the witnesses of the plaintiff and also led the evidence of the petitioner as DW1 Som Parkash. Conduct of the petitioner-defendant himself has committed the contempt of Court and this petition has been filed on 22.07.2023 i.e. even after more than 01 year of passing of the judgment and decree dated 28.02.2022 by the trial Court.
- (c) Present contempt petition, under Section 20 of Contempt of Courts Act, is otherwise time barred from the date of order passed by this Court in aforesaid civil revision as well as from the judgment and decree passed by the trial Court.
- (d) It is apparent that the petitioner, after participating in the proceedings of the civil suit, having lost to the plaintiff, as the

suit was decreed, has adopted a novel method to file the present contempt petition.

- (e) Even otherwise, the main civil revision was filed only against an order, vide which leave to defend was granted in favour of the petitioner, however, on a condition that that he will furnish surety bonds. Therefore, no prejudice is caused to the petitioner, if civil suit is finally decided, as the petitioner-defendant was already granted leave to defend.

In view of the above, this Court is of the consistent view that no willful disobedience on the part of respondent No.1-Additional Civil Judge, Nabha is made out.

Accordingly, present contempt petition is dismissed.

[ARVIND SINGH SANGWAN]
JUDGE

22.08.2023
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No