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

**CR-6599-2023 (O&M)**

**Date of Decision : 18.02.2025**

Shivam Education Society of India & Anr ... Petitioner(s)

Versus

Ashok Kumar & Ors ... Respondent(s)

**CORAM : HON'BLE MRS. JUSTICE ALKA SARIN**

Present : Mr. Vijay Kumar Sheoran, Advocate for the petitioners.

Mr. Abhimanyu Singh, Advocate for respondent No.1.

**ALKA SARIN, J. (Oral)**

1. The present revision petition has been filed impugning the order dated 30.11.2021 and the order dated 23.08.2023 whereby defendant No.10 (petitioner No.1 herein) was proceeded against *ex parte* and thereafter the application filed for setting aside the *ex parte* order dated 30.11.2021 was also dismissed.

2. Brief facts relevant to the present *lis* are that the plaintiff-respondent No.1 herein filed a suit for specific performance of an agreement to sell dated 26.06.1993 regarding land measuring 2 kanals 0 marla. The suit was filed on 08.09.2017. Petitioner No.1 herein who is defendant No.10 in the suit, put in appearance for the first time on 16.01.2020. Thereafter, due to the situation created because of the Pandemic Covid-19, the matters before the Trial Court were directed to be adjourned and a number of directions were passed by this Court in CWP-PIL-77-2021. Vide order dated 28.04.2021 passed in CWP-PIL-77-2021, the time for filing a written

statement, unless specifically directed, stood extended till 30.06.2021. However, it was clarified that it did not preclude the parties from filing the written statement before 30.06.2021. Subsequently, vide order dated 10.11.2021 the directions were extended till 16.12.2021. The *ex parte* order was passed on 30.11.2021. An application was filed for setting aside the *ex parte* order dated 30.11.2021 which was also dismissed vide the impugned order dated 23.08.2023. The said application was dismissed only on the ground that it could not be inferred that defendant No.10 (petitioner No.1 herein) did not have the knowledge of the present case. Hence, the present revision petition.

3. Learned counsel for the petitioners would contend that though the parties were not precluded from filing the written statements, however, due to the situation created because of the Pandemic Covid-19, defendant No.10 (petitioner No.1 herein) and his counsel did not put in appearance on 30.11.2021. The learned counsel would further contend that the non-appearance was not intentional or deliberate but only due to the situation created because of the Pandemic Covid-19. It is further the contention of the learned counsel that the counsel also did not give proper information due to the prevailing situation. The learned counsel would further contend that given one opportunity, defendant No.10 (petitioner No.1 herein) would file his written statement on the next date of hearing before the Trial Court i.e. 24.02.2025.

4. *Per contra* the learned counsel for the plaintiff-respondent No.1 would contend that despite numerous opportunities after defendant No.10 (petitioner No.1 herein) had put in appearance on 16.01.2020, he failed to

file his written statement and was rightly proceeded against *ex parte*.

5. I have heard the learned counsel for the parties.

6. In the present case the suit was for specific performance of an agreement to sell dated 26.06.1993 which had been filed in the year 2017. The absence of the counsel and defendant No.10 (petitioner No.1 herein) on 30.11.2021 was due to the situation created because of the Pandemic Covid-19. Even this Court had issued various directions in CWP-PIL-77-2021 *inter alia* extending the time for filing the written statements. In view thereof, the impugned order dated 30.11.2021 cannot be sustained in law. The same is accordingly set aside. Defendant No.10 (petitioner No.1 herein) is granted one opportunity to file his written statement on the next date of hearing before the Trial Court i.e. 24.02.2025.

7. It is made clear that in case the written statement is not filed on the said date i.e. 24.02.2025, the present revision petition shall be considered as having been dismissed.

8. Disposed off accordingly. Pending applications, if any, also stand disposed off.

18.02.2025  
Yogesh Sharma

( ALKA SARIN )  
JUDGE

NOTE: Whether speaking/non-speaking: Speaking  
Whether reportable: YES/NO