

JUDGMENT SHEET.
ISLAMABAD HIGH COURT, ISLAMABAD.
JUDICIAL DEPARTMENT.

C.R. No.322/2019.

Rizwan Jameel

Vs.

Muhammad Zareef Ahmed

Petitioner by:

Mr. Hazrat Younas, Advocate.

Respondent by:

Mr. Naveed Aftab Ahmed & Mr.
Zubair Mehmood, Advocates for the
respondent.

Date of Decision:

10.12.2019.

MOHSIN AKHTAR KAYANI, J:- Through this civil revision petition, the petitioner has assailed the order dated 29.04.2019, passed by learned Civil Judge 1st Class-West, Islamabad, whereby right of the petitioner to file written statement has been closed in terms of Order VIII Rule 10 CPC.

2. Learned counsel for the petitioner contends that after service of notice upon the petitioner/defendant application U/O VII Rule 11 CPC was filed regarding maintainability of the suit and due to pendency of the said application the written statement could not be filed by the petitioner; that learned Trial Court has not given proper warning and requisite time for filing of written statement and passed the impugned order in violation of settled principles of law.

3. Conversely, learned counsel for the respondent contends that number of opportunities have been granted to the petitioner for filing of his written statement, even after dismissal of application U/O VII Rule 11, CPC but written statement was not filed and learned Trial Court was left with no other option but to close down right of the petitioner to file his written statement.

4. I have heard learned counsel for the parties and gone through the record.

5. Perusal of record reveals that the respondent filed a suit for recovery of Rs.22,469,841.78/- against the petitioner on 17.05.2017, wherein the petitioner after service of notice put appearance on 21.09.2017 and he was given last opportunity to file his written statement but instead of filing written statement, the petitioner filed application under Order VII Rule 11 CPC and the matter remained pending for

proceedings on the said application on 29.9.2017, 17.10.2017, 17.11.2017, 18.12.2017, 30.1.2018, 2.2.2018, 20.2.2018, 1.3.2018, 24.3.2018, 24.4.2018, 14.5.2018, 30.5.2018, 21.6.2018, 12.7.2018, 19.9.2018, 5.10.2018, 23.10.2018, 13.11.2018, 5.12.2018. However, on 11.12.2018 the said application was dismissed and another opportunity was given to the petitioner for filing of his written statement, however, the matter remained pending for 15.2.2019, 11.3.2019, 9.4.2019 and on 29.4.2019 impugned order was passed.

6. The entire record discussed and referred above reflects that approximate 10 different opportunities were granted to the petitioner for filing of his written statement, even ^{۴۴} قطعی حتمی و قطعی آخری موقع بعوض حرجانہ 500 روپے ^{۴۴} was granted with notice in terms of Order VIII Rule 10 CPC on 9.4.2019 but the petitioner despite hectic efforts of the Court has not complied with the directions rather demonstrated contemptuous conduct for non-compliance of the orders of the Court. In such situation, learned Trial Court had no option but to proceed against the petitioner in terms of Order VIII Rule 10 CPC. In terms of Order VIII Rule 10 CPC prescribed time for filing of written statement has been given, which cannot ordinarily exceed from 30 days and where number of opportunities were granted as reflected from the record, even subject to payment of cost opportunity was granted, however, same was not complied with. As such the acts of the petitioner could not be condoned. In such situation, the Apex Court has already observed that Trial Court in such circumstances was quite justified and within its powers to take action against the defendant under Order VIII Rule 10 CPC by closing his right to file written statement. Reliance is placed upon 2017 SCMR 1841 (Riaz ul Haq and others vs. Muhammad Asghar and others).

7. The entire record reveals that the petitioner has consumed approximately two years for filing of his written statement for no substantial reason and as such learned Trial Court has not committed any illegality while closing down right of the petitioner to file his written statement, which otherwise ordinarily is to be filed within 30 days time period in terms of Order VIII Rule 1 CPC, therefore, such time cannot be extended by any stretch of imagination. Reliance is placed upon

PLJ 2011 Lahore 655 (Ghulam Hussain and 3 others vs. Additional District Judge, Multan and 2 others).

8. In view of above discussion, instant civil revision petition bears no merits, therefore, the same is **dismissed**.

(MOHSIN AKHTAR KAYANI)
JUDGE

R Anjam