

**HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU**

OWP No. 2312/2018 (O&M)

Garmeen Bank Sial

...Petitioner(s)

Through:- Ms. Vandana Mehta, Advocate

v/s

Anita Kumari and anr.

....Respondent(s)

Through:- Mr. Satyajeet Jayathia, Advocate

Coram: HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE

ORDER

1. The present petition has been filed impugning the order dated 11.07.2018 passed by the learned court below whereby the application filed by the petitioner/defendant No. 2 seeking condonation of delay in filing the written statement has been rejected. Revisional jurisdiction of this Court has been invoked.

2. It is a case in which suit for recovery of ₹ 2,50,000/- plus interest was filed by the respondent No.1/plaintiff against the petitioner and Bajaj Allianz Insurance Co. Ltd. After notice was issued in the suit the petitioner/defendant No. 2 appeared and sought time to file written statement on 14.02.2017. The case was adjourned to 06.04.2017. On that date further time was granted to file written statement and the case was adjourned to 30.05.2017. However, on the next date written statement was filed along

with application seeking condonation of delay. The application seeking condonation of delay in filing written statement was dismissed on 11.07.2018 and as a consequence application seeking to place on record written statement was also dismissed.

3. Learned counsel for the petitioner submitted that in fact there was no delay in filing the written statement. On 06.04.2017 while adjourning the case to 30.05.2017, the learned court below had granted time to the petitioner/defendant No. 2 to file the written statement. Application filed by the petitioner seeking condonation of delay in filing the written statement was dismissed by the learned court below finding no merit therein. Even thereafter, for about 06 months the defendant No. 1 had not been served by the plaintiff. It is not a case where the proceedings in the suit were being delayed on account of little delay in filing written statement by the petitioner. The petitioner is a bank and before filing written statement approval at different stages was required.

4. It was submitted that the written statement having been filed within the time granted by the court, the same should have been taken on record and the matter proceeded further.

5. On the other hand, learned counsel for respondent No. 1/plaintiff submitted that the petitioner appeared for the first time on 10.01.2017. Though period of 30 days has been provided for filing the written statement, which could be extended up to 90 days, for reasons to be recorded. However, there is no good reason available on record for extension of time for filing written statement beyond 90 days, which expired on 08.04.2017. The written statement was filed on 30.05.2017. The learned

court below has rightly rejected the application seeking condonation of delay in filing the written statement.

6. Heard learned counsel for the parties and perused the paper book.

7. As is evident from order passed by the learned court below on 10.01.2017, the petitioner-defendant No. 2 appeared in person and time was sought to file the written statement. The case was adjourned to 14.02.2017. On that day the petitioner sought further time to file written statement. The case was adjourned to 06.04.2017. On that day again request was made for more time to file written statement. The learned court below passed the following order on 06.04.2017:-

“L/c for the plaintiff present. L/c for the defendant No. 2 present. Today also he seeks time for filing written statement. Time granted and the office is directed to serve the defendant No. 1 through notice. File put up on 30.05.2017.”

8. A perusal of the aforesaid order shows that learned court below had granted time to file written statement. The next date of hearing was fixed as 30.05.2017. On that day though there was no requirement to file application seeking condonation of delay in filing the written statement but petitioner/defendant No.2 under certain mistaken advise filed application seeking condonation of delay in filing the written statement. The said application was dismissed by learned court below vide impugned order dated 11.07.2018, more than one year thereafter. While rejecting the application, the learned court below failed to appreciate the fact that vide order 06.04.2017, the petitioner/defendant No. 2 was granted further time to

file the written statement but still when it was filed on the next date of hearing, the same was not taken on record. The learned court below has further failed to appreciate the fact that it was not a case where the proceedings in the case were being delayed by the petitioner as service of defendant No. 1 was not yet complete. The purpose for which substantial amendments were made in CPC was to expedite the trial. The period of 90 days was fixed for filing written statement, however, the same could be extended for good reasons. It cannot be disputed that the institutions work as snails speed. The petitioner herein is a Garmeen Bank. The stand taken was that on account of drafting and approval of the written statement to be filed at different levels there was delay in the process.

9. The learned court below instead of appreciating the object for which the amendment was made, wasted more than a year's time only in deciding the application. During that period the proceedings in the suit could be taken further. In the process the very purpose for which amendments were made was defeated.

10. For the reasons mentioned above, present petition is allowed and the impugned order dated 11.07.2018 passed by the learned court below is set aside. The written statement already filed by the petitioner/defendant No. 2 is directed to be taken on record. However, the same shall be subject to payment of ₹ 2,500/- as cost to the petitioner/defendant No. 2 by the respondent No. 1/plaintiff.

11. Before parting with the order, this Court would like to make certain observations regarding the manner in which the proceedings are being conducted by the courts below.

- (i) In most of the zimni orders passed by the courts below, names of the counsels who represent either of the parties is not mentioned.
- (ii) Most of the order sheets on which zimni orders are recorded do not reflect the names of the Presiding Officers who sign the orders or the case number and the parties' name, making it difficult to link any order sheet with the main case, if separated.
- (iii) All the officers are well aware of the fact that with the e-court system being in place, CNR number is the identification for any case, which is required to be mentioned not only on each page on which zimni orders are passed, besides the title of the case in brief, but even on the interim orders passed deciding the application and the final judgment. This is one of the easiest parameter with which search is possible on the NJDG portal.
- (iv) Not only in this case, in some of the cases it has been noticed that the zimni orders passed by the courts below do not reflect on whose behalf the adjournment has been sought and granted. In certain matters the requirement of law is to even mention the reasons why the case is being adjourned but these are also missing.
- (v) Uploading of orders passed in language other than English will not be possible immediately though efforts are being made for the purpose. Even if the orders are recorded in language other than English, copy thereof also should be available on record in

English language duly signed by the officer concerned, which is to be uploaded on the website.

- (vi) None of the orders passed by the courts below mention the unique identification number (UID) allotted to each of the Judicial Officer.
- (vii) In many of the orders date of filing of suit and date of decision thereof is missing.
- (viii) It is further noticed that separate order sheets are maintained for passing zimni orders in the main cases and in the application, either filed at the time of institution of the case or subsequently. The order sheets are also kept separately in the files. As a result of which the officers are not able to keep pace with the progress of the case or track of the applications.
- (ix) In the orders passed by the court below exercising Appellate or Revisional jurisdiction complete details of the order impugned are sometimes missing.
- (x) Whenever, any application for bringing on record the legal representatives of any deceased party is allowed, the names thereof are not properly recorded in the memo of the parties, which many a times results in passing of final order without correct memo of parties and consequently issuance of certified copies of thereof.

- (xi) In many of the judgments/long orders the learned courts below did not mention the para numbers or are in habit of unnecessarily underlining many paras.
- (xii) If we have to keep pace with the developments taking place in the judicial system with introduction of e-courts system, which is for benefit of all the stake holders, such as judicial officers, advocates, staff, higher Courts and most important being the litigants, we will have to streamline our working. Unless we improve the manner in which the details are mentioned in the orders, the real object for which e-courts system has been put in place, will be defeated and we will lag behind.

Hence it is directed:

- (1) While passing the zimni orders, on all order sheets in the centre, case number (CNR No.) and parties name in brief such as ABC (and Others) v/s. XYZ (and Others) should be mentioned.
- (2) In all of the zimni orders, interim orders or final judgments the names of the counsels who represent different parties should be clearly mentioned, instead of merely mentioning 'L/c' for the plaintiff or defendant or any other form used.
- (3) Whenever any request is made for adjournment by any of the parties it should specifically be recorded in the order as to on whose behalf adjournment has been prayed for and granted with reasons in brief. This will help the court in finding, which of the party delayed the proceedings.

- (4) It has been noticed in number of cases that the parties to the litigation do not mention their complete addresses or the parentage as a result of which it is difficult to serve them. Addresses of the plaintiff (s)/petitioner(s) before the court below is equally relevant though he may not have to be served at that stage but his/their service may be required, if any adverse order is impugned before the higher Court. At the time of filing of the cases and applications, the learned court below to ensure that address(s) and parentage of other parties is also complete on which service of notices can be effected.
- (5) In all the orders passed by the courts below names along with UID number of the officers concerned should be typed below the signatures.
- (6) Whenever zimni orders or any other order is passed in language other than English, translation thereof in English should also be available on record, duly signed by the officer concerned, for the purposes of uploading of those orders on the Website or supply of copies to the parties concerned. Subsequent translation by any person other than officer, who passes the order, may change real spirit and intent of the order. In all the orders passed, deciding the applications during the pendency of the main case, the date on which the main case was filed, the date on which the application in question was filed and the decision thereof should be mentioned before title of the case, in the centre of page, so as to save it from tagging.

- (7) At the time of final decision of a case, the date of filing and the date of decision thereof should be mentioned above the memo of parties, in the centre of the paper.
- (8) Whenever any application is allowed for amendment or for bringing legal representatives of any of the party or deletion/addition of any party in the proceedings, specific note thereof should be made on the memo of parties itself to be taken care of at the time of passing final order and supplying copies of the orders.
- (9) While deciding any appeal or revision against the order passed by the court below, the learned courts below are directed to mention complete details of the case, order passed wherein is impugned.
- (10) In all the orders and judgments the paras should be numbered.
- (11) In criminal cases complete details of the FIR, offence for which same was registered and details of the Police Station should be clearly mentioned including specific details of the offence, if any, added later on.
- (12) In all the proceedings the order sheets of the main case and the application should be common and not separate. Any order passed on a particular date should contain the details with reference to the main case and/or the application which is being dealt with on that date.
- (13) All the applications filed should be duly numbered, for which provision is there in CIS-3 and indexed separately with details such as the, date of filing, prayer in the application and date of

(14) In cases pertaining to determination of compensation in land acquisition matters, dates of various notifications, date of award by the collector area acquired and the area where the land is situated are required to be mentioned. Efforts should be made to decide all the cases of same acquisition together.

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integrity of this document