

CR-5741-2015

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

CR-5741-2015

Date of decision: 3.9.2015

Shri Jaswant Singh

...Petitioner

Versus

Shri Mukesh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Adeeb Raheja, Advocate for the petitioner

SNEH PRASHAR, J.

Instant civil revision has been filed under Article 227 of the Constitution of India for setting aside the order dated 23.7.2015 passed by learned Civil Judge (Senior Division), Ferozepur vide which evidence of the petitioner-defendant was closed by court order

Shorn of unnecessary details, the facts giving rise to the present petition are that plaintiff/respondent had filed a suit for possession by way of specific performance of agreement to sell dated 8.11.2011. The petitioner was never served and despite that he was proceeded against ex-parte on 22.10.2014. The application moved by him for setting aside the ex-parte order was allowed on 16.5.2015. Thereafter, the case was adjourned for filing written

statement subject to payment of Rs.500/- as costs, but he did not file the same and the case was again adjourned to 23.7.2015. On that date also, neither the written statement was filed nor the cost was deposited and hence, the defence of the petitioner/defendant was struck off.

The submissions made by learned counsel for the petitioner have been considered.

Learned counsel for the petitioner-defendant submits that due to certain unavoidable circumstances, the counsel representing the petitioner could not file the written statement on the date fixed. The written statement is ready. The case is at the initial stage and if the petitioner is not allowed to defend the case by raising specific factual and legal pleas available to him, his rights will be prejudiced and will be adversely effected.

Considering all aspects of the case and without commenting on the merits, the present revision petition is allowed. The order dated 23.7.2015 is set aside and the petitioner is granted one effective opportunity to file his written statement before the trial Court subject to deposit of Rs.2500/- (including the cost of Rs.500/- already imposed by the trial Court), as cost with the District legal Services Authority, Ferozepur.

However, it is made clear that if the petitioner

-defendant fails to file the written statement on the date fixed by the trial Court for that purpose, no further opportunity shall be granted to him.

3.9.2015
gsv

(SNEH PRASHAR)
JUDGE