

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

Sr. No.283

**CIVIL REVISION No.1731 of 2017
DECIDED ON: April 25, 2017**

SUKHWINDER SINGH

..PETITIONER

VERSUS

GURINDER SINGH

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. Puneet Kumar Bansal, Advocate,
for the petitioner.

Mr. Vinod Khunger, Advocate,
for the respondent.

JASPAL SINGH, J. (ORAL)

By virtue of the instant civil revision preferred under Article 227 of the Constitution of India, petitioner has sought setting aside the order dated April 18, 2016 (Annexure P-2) whereby the defence of the petitioner-defendant has been struck off as well as for setting aside the order dated October 25, 2016 whereby an application for re-calling/reviewing of the order dated April 18, 2016 has been dismissed.

2. No doubt, a perusal of the impugned order as well as other documents available on record transpires that the petitioner-defendant availed a period of more than 90 days for filing the written statement and it was only thereafter, the defence of the petitioner/defendant was struck off. However, it appears that due to wrong advice given by the learned counsel

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appearing before the trial court, an application for recalling/reviewing the order dated April 18, 2016 was filed, which was otherwise not legally maintainable. On account of non-availability of the remedy against the order dated April 18, 2016, by way of revision, the petitioner-defendant should not be made to suffer. This court is further of the considered view that it would meet the ends of justice in case the petitioner/defendant is afforded an opportunity to file the written statement so that the matter in controversy be adjudicated upon by the trial court in an effective and judicious manner. Otherwise also, the right of the parties should not be scuttled down on account of some procedural defaults or omissions, especially in the circumstances, where the other party can be compensated.

3. In the light of what has been discussed above, the impugned order dated April 18, 2016 as well as subsequent order dated October 25, 2016 are set aside by way of acceptance of instant revision. The trial court is directed to provide an effective opportunity to the petitioner/defendant to file the written statement and then to proceed with the disposal of the suit in accordance with law. However, this opportunity shall be subject to the payment of ₹5000/- which shall be deposited in the District Legal Services Authority, Ferozepur (Punjab).

April 25, 2017
Ankur

(JASPAL SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No