

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

-.-

CR 5776 of 2017

Date of decision: 29.08.2017

Davinder Kumar

..... *Petitioner*

Versus

Raman Kumar and others

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Veneet Sharma, Advocate
for the petitioner

-.-

Rekha Mittal, J. (Oral)

The petitioner has approached this Court for availing of an opportunity to file written statement as defence of the petitioner has been struck off for want of filing of the written statement on 10.07.2017.

Counsel for the petitioner has submitted that dispute in the present petition is between sons of late Shri Suraj Dutt. The petitioner caused appearance before the trial Court on 10.03.2017. He was directed to file the written statement. On 06.05.2017, an application under Order VII Rule 14 of the Code of Civil Procedure (in short, 'CPC') was filed, requiring the respondent/plaintiff to place on record agreement to sell, sale deed and an affidavit marking presence in the office of Sub Registrar, Amritsar and the same was decided by the Court on 19.05.2017. It has further been submitted that if the period during which the application remained pending and Courts were closed for civil work is excluded for computing period of 90 days statutorily allowed to the defendants to file the written statement, order striking off defence of the petitioner for want of filing of written statement has been passed by the Court before expiry of period of 90 days.

It is further submitted that a serious prejudice would be caused to the

petitioner in case he is not permitted to file the written statement and defend the proceedings. It is prayed that the petitioner may be allowed one opportunity to file the written statement and he is ready to compensate the respondent/plaintiff by payment of reasonable costs.

I have heard Counsel for the petitioner and perused the paper book including various *zimini* orders, recorded by the trial Court.

Plea of the petitioner that he filed application under Order VII Rule 14 CPC on 06.05.2017 which came to be decided by the Court on 19.05.2017 gets substantiated from the orders placed on record. In case the petitioner is not permitted to file the written statement, his presence in the proceedings would hardly be of any consequence for him as in absence of pleadings, he would not be in a position to defend cause of action pleaded by the respondent/plaintiff.

Taking into consideration the principles of natural justice, the petitioner is allowed one opportunity to file the written statement within ten days subject to costs of Rs.5,000.00, to be deposited with the trial Court well before filing of the written statement and the same shall be released in favour of the respondent/plaintiff, as per rules.

Before parting with the order, it is clarified that the instant petition has been disposed of without notice to the respondent in order to avoid inconvenience and incurring expenditure by him. However, if the respondent has any grievance to express, he shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

29.08.2017

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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No