

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.6918 of 2016
Date of decision:3.8.2017**

Jaswant Singh

...Petitioner

Versus

Amandeep Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Deepak Aggarwal, Advocate for the petitioner.
Ms.Manju, Advocate for
Mr.Rakesh Nehra, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Instant revision petition, at the hands of defendant, filed under Article 227 of the Constitution of India, is directed against the order dated 13.7.2016 passed by the learned trial court, whereby defence of the defendant was struck off and he was not permitted to file written statement.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that suit is pending between father and son. Son is the plaintiff and father/petitioner is the defendant. The explanation furnished by the learned counsel for the petitioner for delay in filing the written statement in time was that because of close relationship between the parties, talks for compromise were going on, which could not be materialised, has been found to be justified and the same deserves to be accepted.

On the contrary, the correctness of the statement made by the learned counsel for the petitioner could not be disputed by the learned counsel for the respondent. In this view of the matter, the impugned order cannot be sustained.

It is the settled principle of law that rules of procedure are

meant for advancing the cause of justice. Every court of law must make an endeavour to grant reasonable opportunities to both the parties to put up their best case before the court. Nobody should be forced to go home with the grievance that sufficient opportunity was not granted by the court. By following this principle of law, learned court would achieve twin objects i.e. (i) it would avoid multiplicity of litigation between the parties and (ii) the court would be in a better position to do complete and substantial justice between the parties.

So far as the present case is concerned, delay on the part of the petitioner-defendant was not an inordinate long delay. However, the learned trial court failed to appreciate the relationship between the parties before passing the impugned order. Having said that, this Court feels no hesitation to conclude that the learned trial court failed to exercise the jurisdiction vested in it and the impugned order cannot be sustained, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, the same cannot be sustained.

Accordingly, the impugned order dated 13.7.2016 passed by the leaned trial court (Annexure P-2) is hereby set aside. Petitioner-defendant is granted one more opportunity to file his written statement within a period of two weeks from today, failing which, the present revision petition would be deemed to have been dismissed.

Resultantly, with the above-said observations made, the instant petition stands allowed, however, with no order as to costs.

3.8.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned : Yes/No
Whether Reportable : Yes/No