

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

**Civil Revision No.8463 of 2017 (O&M)
Date of Order: 04.12.2017**

Parveen Kumar

..Petitioner

Versus

Dr. Subhash Chander Jain and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. K.B.Raheja, Advocate,
for the petitioner.

ANIL KSHETARPAL, J (Oral)

Defendant no.3-petitioner is aggrieved of order dated 14.11.2017, refusing to set aside ex-parte proceedings as also order striking off the defence of the petitioner.

Plaintiff had filed a suit for possession by way of redemption of mortgage on 05.03.2013. Plaintiff had impleaded defendants no.1 to 3 in the suit. Defendants no.1 and 3 are brothers being sons of Siri Ram, whereas defendant no.2 is wife of defendant no.1.

Defendant no.3 was served. He appeared through counsel on 19.03.2013. Thereafter, defendants no.1 and 2 were also served, they also engaged the same counsel as engaged by defendant no.3-petitioner.

After service, written statement was filed on behalf of defendants no.1 and 2. After availing four opportunities, since no written statement was filed on behalf of defendant no.3, defence of defendant no.3 was struck off on 30.08.2014. Thereafter, counsel for defendant no.3 who was also counsel for defendants no.1 and 2 pleaded no instructions on

behalf of defendant no.3 and hence he was proceeded against ex-parte also.

Learned trial Court after considering all the aspects of the matter, dismissed the application noticing that the application for setting aside ex-parte proceedings and striking off the defence cannot be entertained after a period of three years, once the grounds taken in the application are false and frivolous. The Court further noticed that the entire efforts of defendant no.3 is to delay the trial of the case.

This order has been challenged before this Court.

I have heard counsel for the petitioner and with his able assistance gone through the documents placed in the paper book.

It is not in dispute that the petitioner was served with summons. He had engaged counsel. Counsel appeared for him and availed as many as four opportunities for filing written statement, however, no written statement was filed. It was in these circumstances, the defence of the petitioner was struck off on 30.08.2014.

At the cost of repetition, it may be noticed that defendant no.1 is brother of petitioner-defendant no.3.

Taking into consideration that the suit was filed in the year 2013 and defendants no.1 and 2 have already contested the suit on merits, this Court does not find any good ground to interfere with the impugned order passed by the Court.

The revision petition is dismissed.

December 04, 2017
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No