

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

CR-91-2017

Date of decision: 11.1.2017

Prem Singh

...Petitioner/ defendant No.2

Versus

Balkar Singh and another

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Aakash Singla, Advocate for the petitioner

SNEH PRASHAR, J.

The instant revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 24.8.2016 (Annexure P-1) passed by learned Civil Judge (Junior Division), Patiala vide which, defence of the petitioner -defendant No.2 was struck off.

The submissions made by Mr.Aakash Singla, Advocate representing the petitioner have been considered.

The impugned order is stated to be outcome of some communication gap between the petitioner and his counsel. Learned counsel contends that the order dated 22.7.2016 vide which last opportunity was granted by learned trial Court to file written statement and reply to the stay application subject to payment of Rs.300/- as costs, could not be complied with and vide impugned order dated 24.8.2016, the defence of the petitioner was struck off by learned trial Court. There was no intentional or willful default on part of the petitioner-defendant. Submitting that non-filing of the written statement will cause irreparable loss to the

petitioner, learned counsel prayed that just one more opportunity be granted to him to file the same.

Indeed, absence of pleadings on part of the petitioner (defendant No.2) will leave hardly any scope to put up its defence and contest the suit. In the interest of justice, to avoid unnecessary delay in the matter by issuing notice etc. to the respondents, in my considered opinion, the petitioner (defendant No.1) deserves to be given one last opportunity to file written statement. That will cause no prejudice to the rights of the respondents-plaintiffs as they have still to start with their evidence. Proper pleadings and evidence adduced by both the parties will also help the trial Court to better appreciate the issues involved and render substantial justice to the parties.

Resultantly, the present revision petition is allowed. The order dated 24.8.2016 is set aside and the learned trial Court is directed to grant one effective opportunity to the petitioner to file the written statement subject to deposit of Rs.2000/- as costs, in addition to the costs imposed vide order dated 22.7.2016 passed by the trial Court. The costs be deposited with the District legal Services Authority, Patiala.

However, it is made clear that if the petitioner fails to file written statement on the date so fixed by learned trial Court, no further opportunity shall be granted to him.

11.1.2017

gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?**Yes / No****Whether reportable?****Yes / No**