

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

CR No.2044 of 2018.

Decided on:-March 27, 2018.

Sukhdeep Singh.

.....Petitioner.

Versus

Hardeep Singh Gill and others

.....Respondents.

CORAM: *HON'BLE MR. JUSTICE HARI PAL VERMA.*

Present:- Mr. D.S. Kahlon, Advocate
 for the petitioner.

HARI PAL VERMA, J. (Oral)

The petitioner has filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 07.02.2018 (Annexure P-3) passed by learned Additional Civil Judge (Senior Division), Amritsar, whereby for not filing the written statement and on account of non-deposit of costs of Rs.200/-, the defence of the petitioner-defendant was struck off under Section 35-B CPC.

Learned counsel for the petitioner has argued that on 13.03.2018, the case was fixed for filing written statement. However, when the counsel for the petitioner-defendant appeared in the civil Court for filing written statement, it came to his knowledge that defence of the petitioner-defendant has already been struck off vide order dated 07.02.2018 because of non-filing of the written statement and non-payment of the costs.

He further stated that the impugned order dated 07.02.2018 was neither in the knowledge of the petitioner-defendant nor his counsel before the civil Court. He states that the petitioner-defendant and his counsel were not aware of the proceedings dated 07.02.2018 and as such, the costs could not be deposited. However, immediately after coming to know the order dated 07.02.2018, the petitioner-defendant moved an application under Section 151 CPC on 13.03.2018 showing his intention to pay the costs and to file the written statement. The said application is pending consideration before the civil Court and no order has been passed therein.

I have heard learned counsel for the petitioner.

The instant petition is being disposed of without issuing notice to the opposite side for the reason that it would further delay the proceedings.

Considering the fact that the proceedings in the suit are at initial stage as no witness on behalf of the respondent-plaintiff has been examined so far, the present petition is disposed of with a direction that the civil Court shall take a rational decision on the application under Section 151 CPC filed by the petitioner-defendant without being prejudiced with the earlier order and shall pass an independent order on the said application preferably on the next date of hearing i.e. 02.04.2018 itself.

March 27, 2018
Yag Dutt

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes

Whether Reportable: No