

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.3917 of 2018
Date of Decision : 01.06.2018

Beant Singh

.....Petitioner

Versus

Dilbag Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr.Dinesh Trehan, Advocate for the petitioner.

ARUN PALLI, J. (Oral)

The petitioner/defendant is aggrieved by an order dated 19.02.2018 (Annexure P-1), passed by the Civil Judge (Jr. Divn.), Samana, vide which, his defence has since been struck off, for, not filing the written statement within the statutory period of 90 days.

Learned counsel for the petitioner submits that the petitioner/defendant had caused appearance for the first time on 29.11.2017, before the trial Court, and the matter was adjourned to 8.1.2018, for filing of the written statement. As no written statement was filed on the adjourned date, the matter was further adjourned to 19.02.2018. But as despite last opportunity the petitioner/defendant failed to file the written statement within the statutory period of 90 days his defence has since been struck-off, vide impugned order dated 19.02.2018. It is urged that the period of 90 days, as referred to above, was not yet over from the date the defendant had caused appearance before the trial Court on 29.11.2017. Thus, the observation recorded by

the trial Court in this regard is erroneous. Nevertheless, the suit was filed on 8.9.2017, and hardly any time had lapsed.

I have heard learned counsel for the petitioner and perused the record.

Ex facie, the petitioner was granted two opportunities to file the written statement after he had caused appearance on 29.11.2017. Even i, it is assumed that he was remiss in pursuing his cause and failed to file the written statement despite having been granted one last opportunity, the fact remains, that if he is not granted one last opportunity to file the written statement he shall suffer an irreparable loss and injury. Particularly, as the learned counsel for the petitioner submits that the written statement shall now be filed on the date already fixed in the suit.

That being so, the impugned order dated 19.02.2018 (Annexure P-1), is set aside, without issuing any formal notice to the respondent to avert any further delay and the expenses that respondent shall have to incur to defend these proceedings. The revision petition is accordingly disposed of, in the following terms:-

- (a) The petitioner shall be permitted to file his written statement on 11.07.2018, the date already fixed in the suit.
- (b) In the event of default, the matter shall not be adjourned at any cost, and the defence of the petitioner shall be deemed to have been struck-off.
- (c) This however, shall be subject to payment of Rs.5,000/- as cost

that shall be a condition precedent.

01.06.2018

Manoj Bhutani

Whether speaking/reasoned
Whether reportable

(ARUN PALLI)
JUDGE
Yes/No
Yes/No