

231

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

CR No.4013 of 2017(O&M)

Date of Decision: 10.05.2018

Surajbhan

.....Petitioner

Vs

Zile Singh and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Parmod Parmar, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (Oral)

[1]. Petitioner has assailed the order dated 19.05.2017 passed by Civil Judge (Junior Division), Charkhi Dadri, whereby defence of defendant No.1 was struck off on account of non-filing of the written statement.

[2]. Written statement on behalf of defendants No.5 and 13 was filed on 10.11.2016. Defendant No.1 appeared in the Court on 07.04.2016 and since then, the case remained pending for filing written statement on behalf of defendant No.1. Period of 90 days had expired and thereafter, the Court proceeded to *strike off* the defence of petitioner/defendant No.1. At the time of passing the impugned order, learned counsel for the plaintiff also stated at bar that there were chances of compromise

between the parties. Adjournment was sought. The prayer was allowed. The matter was even put up before the National Lok Adalat.

[3]. In view of aforesaid fact, this Court while issuing notice of motion recorded that petitioner deserves one more opportunity to file written statement, so as to avoid any miscarriage of justice. Petitioner showed his willingness to compensate the respondents with reasonable costs.

[4]. Taking into consideration the provision in terms of Order 8 Rule 1 CPC and ratio laid down in **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India, AIR 2005 SC 3353** followed in **Kailash Vs. Nanhku and others, 2005(2) RCR (Civil) 379** and **Sandeep Thapar Vs. SME Technologies Private Limited, 2014(1) RCR (Criminal) 729**, I deem it appropriate to grant one opportunity to the petitioner to file written statement within fortnight subject to cost of Rs.10,000/- to be paid to the respondents in equal proportions. Payment of cost shall be the condition precedent for granting indulgence by the trial Court in the aforesaid context.

[5]. Petition stands disposed of accordingly.

May 10, 2018

Prince

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No

(RAJ MOHAN SINGH)
JUDGE