

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

CR No.4743 of 2017
Date of decision : 24.04.2018

Paramjeet Singh

...Petitioner

Versus

Harinder Kaur and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Arun Singal, Advocate for the petitioner.

Mr. Namit Sharma, Advocate for respondent Nos.1 and 2.

ANIL KSHETARPAL, J. (ORAL)

Defendant No.1-petitioner is in the revision petition against the order passed by the learned trial Court dated 06.05.2017 striking off the defence of the defendants on the ground that the written statement has not been filed after availing sufficient opportunities.

Learned counsel for the petitioner has drawn attention of the Court to various orders passed by the trial Court. Learned counsel has submitted that on 23.02.2017, defendant No.1 appeared pursuant to summons. The Court orally examined the parties and directed the parties to explore the possibility of the settlement. Both the parties were directed to obtain the valuation report of the properties and place the same on the record on 17.03.2017. On 17.03.2017, both the parties sought further time for placing on record the valuation reports. The case was adjourned to

12.04.2017, on which date, once again same prayer was repeated. The case was adjourned. The defendants were also directed to file written statement. On 06.05.2017, the defendant suffered a statement in the Court that the parties are unable to reach at a settlement and prayed for time to file reply. However, learned trial Court struck off the defence on the ground that sufficient opportunities have been granted.

As noticed above, initially the Court made a sincere efforts to settle the dispute between the parties by amicable settlement. The case was adjourned for this purpose on two occasions. It is for the first time on 12.04.2017, the Court directed the defendants to file written statement and on the next date, the defence was struck off.

Taking into consideration the aforesaid facts, this Court is of the considered opinion that the order passed by the learned trial Court is harsh and needs to be set aside. No doubt, under the Code of Civil Procedure, time for filing the written statement has been fixed, however, such provision is not mandatory. In the facts and circumstances of the case, the Court always has a power to extend the time as provided under the Code of Civil Procedure. In the considered opinion of this Court, this is a fit case where the Court was ought to have fixed the time.

Keeping in view the aforesaid, the order under challenge is set aside.

Revision petition is allowed.

Defendant No.1-petitioner is granted one opportunity to file the written statement. This opportunity shall be subject to the payment of costs of ₹5,000/-.

Counsel for the petitioner-defendant No.1 undertakes to file the written statement within a period of 15 days from the date of receipt of certified copy of the order.

24.04.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No