

111.

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

Civil Revision No.498 of 2018

Date of decision:24.01.2018

RAGHUBIR SINGH

... Petitioner

versus

RAM LAL

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr.Sandeep Arora, 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 30.11.2017 (Annexure P-2) passed by learned Civil Judge (Junior Division), Pathankot, whereby for not filing the written statement and depositing the cost imposed upon him, his defence was struck off.

Vide order dated 30.11.2017 when the case was fixed for filing written statement on behalf of petitioner-defendant, the Court struck off the defence of the defendant as the requisite period of 90 days had already elapsed. Despite the costs having been imposed on the petitioner i.e. ₹ 500 on 18.10.2017 and ₹100 on 16.11.2017, written statement has not been filed.

Learned counsel for the petitioner has argued that the petitioner was suffering from a severe backache and the old case file was not available, due to which, he could not file the written statement on the given dates. He had conveyed his lawyer that he would pay the necessary costs

after recovering from the backache problem.

Petitioner undertakes to file the written statement within a week from today and is even ready to compensate the respondent-plaintiff for filing the written statement at this stage. He states that no prejudice is going to be caused to the respondent-plaintiff. Moreover the suit was filed on 24.05.2017 and, therefore, it cannot be stated that the petitioner has delayed the proceedings in the suit.

I have heard learned counsel for the petitioner.

Though the respondent is required to be served notice, but taking into consideration that it will further delay the proceedings in the suit and also noticing the fact that the petitioner is around 60 years of age, who has pleaded that he was suffering from a severe backache and, therefore, could not file the written statement despite imposition of costs on two different occasions, this Court accepts this plea. In case, the petitioner deposits an additional amount of ₹5,000/- over and above the cost imposed by the civil court and files the written statement within a week, he will be allowed to do so. On deposit of the aforesaid cost which shall be payable to the respondent-plaintiff, the trial Court shall take the written statement on record which shall be filed within a week from the date of receipt of certified copy of this order. The petitioner shall not unnecessarily delay the trial in future.

Disposed of.

(HARI PAL VERMA)
JUDGE

24.01.2018
sanjeev

Whether speaking/reasoned
Whether Reportable:

Yes/No.
Yes/No.