

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

CR No. 6536 of 2018
Date of Decision: 28.09.2018

Surinder Kaur

.....Petitioner

Versus

Kanwaljit Singh and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Amit Arora, Advocate
for the petitioner.

DEEPAK SIBAL, J. (ORAL)

Order dated 01.03.2018 passed by the Additional Civil Judge (Senior Division), Tarn Taran (for short, the Trial Court), striking off the petitioner's defence for not having paid the awarded costs and further directing that the petitioner be proceeded ex-parte, is under challenge in the present proceedings.

So far as the petitioner having been ordered to be proceeded against ex-parte is concerned, this Court is informed that the petitioner has already filed an application before the Trial Court seeking setting-aside of the same which is pending. Thus, the present petition is being pressed only against that part of the impugned order through which for non payment of the awarded costs the petitioner's defence has been struck off.

Learned counsel for the petitioner submits that the awarded costs could not be deposited on 01.03.2018 i.e. when the impugned order was passed, for the reason that the learned counsel appearing on behalf of the petitioner before the Trial Court had wrongly noted the date of hearing

of the suit as 09.03.2018. It is further submitted that such inadvertent lapse was bonafide for which the petitioner may not be prejudiced.

Without commenting on the merits of the reason given by the petitioner for having not deposited the awarded costs but in the line with the principles of natural justice as also for the reason that the petitioner may not be precluded from raising his defence at the initial stage of the trial, subject to payment of ₹5,000/- as costs to be paid by the petitioner to each of the respondents, after setting aside the order impugned in the present petition, the petitioner is permitted to file his written statement within one week from today.

The present petition is allowed in the above terms.

If the respondents are aggrieved by this order, they are at liberty to approach this Court through an appropriate application.

(DEEPAK SIBAL)
JUDGE

28.09.2018
sandeep

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No