IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

229 **CR No. 7741 of 2016**
Date of Decision: August 24, 2018

ROSHAN LAL **...Petitioner**

Versus

DHANI RAM **...Respondent**

CORAM:- HON'BLE MR. JUSTICE DEEPAK SIBAL.

Present:- Mr. Vishal Aggarwal, Advocate, for the petitioner.

Mr. Vishal Munjal, Advocate, for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 31.08.2016 passed by the Civil Judge (Jr. Divn.), Pathankot (for short 'the trial Court') through which the petitioner's defence has been struck off.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit against the petitioner seeking therein recovery of ₹50,000/- as damages for being in illegal possession of a part of the respondent's property.

On being put to notice, the petitioner appeared before the trial Court on 17.05.2016 but till 31.08.2016 he did not file any written statement. The awarded costs were also not deposited. Therefore, his defence was struck off through the order impugned in the present petition.

Learned counsel for the petitioner submits that the petitioner may be granted only one opportunity to file his written statement as he should not be precluded from putting up his defence at the very threshold of the suit filed against him for which he may be burdened with reasonable

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costs to be assessed by this Court.

Learned counsel appearing on behalf of the respondent submits that since no stay was granted in the present petition, the respondent has already led his entire evidence and therefore, if the petitioner is to be granted one opportunity to file written statement, the same should be subjected to heavy costs and that this Court may also fix a time line for disposal of the respondent's suit.

It is not disputed that the petitioner who was the defendant in the suit had put in appearance before the learned trial Court on 17.05.2016 and for a period of over three months he did not file his written statement. While not condoning the laxity on the part of the petitioner but in the facts of the present case, only with a view of not precluding him from putting up his basic defence in the recovery suit filed against him, which would certainly affect his financial interests, subject to the petitioner paying to the respondent ₹10,000/- as costs, after setting aside the impugned order, I consider it just and proper to grant to the petitioner only one opportunity to file his written statement. The same be filed within two weeks from today. Thereafter the trial Court shall grant three effective opportunities each to both the parties to lead their respective evidence including rebuttal evidence, if any, and dispose of the suit within 9 months from the date of receipt of a certified copy of this order, in accordance with law.

(DEEPAK SIBAL)
JUDGE

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Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*

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