

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

Sr. No.220

CR No.2526 of 2017

Date of decision: 19.11.2019

Sukhdev Singh

....Petitioner

versus

Gursahib Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anupam Bhardwaj, Advocate
for the petitioner.

Mr. Mohit Kumar, Advocate for
Mr. M.S. Bhatti, Advocate
for respondents No.1 and 2.

None for respondents No.3 and 4.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 30.08.2016 passed by the Civil Judge (Junior Division), Ajnala, (for short – the Trial Court) striking off the petitioner's defence on the ground that the petitioner had not filed his written statement for a period of 92 days after having put in appearance before the Trial Court. Also under challenge is the order dated 20.03.2017 passed by the Trial Court dismissing an application filed by the petitioner seeking review of the aforesaid order of the Trial Court dated 30.08.2016.

Learned counsel for the petitioner and respondents No.1 and 2
have been heard.

Respondent No.1 and 2 filed a suit seeking therein to restrain respondents No.3 and 4 from shifting the electric tube-well connection bearing A/c No.APOS-1849 which was allegedly being used by respondents No.1 and 2 for irrigating their agricultural land detailed and described in the head note of their plaint. The petitioner and respondent No.5, who were defendants No.3 and 4 in the suit, were further sought to be restrained from interfering in the peaceful possession and lawful functioning of the aforesaid electric tube-well connection. On being put to notice, the petitioner, who was defendant No.3 in the suit, appeared before the Trial Court on 30.05.2016 and for the reason that till 30.08.2016, the petitioner had not filed his written statement, his defence was ordered to be struck off by the Trial Court. On 16.09.2016, the petitioner filed his written statement which in terms of the aforesaid order of the Trial Court dated 30.08.2016, was ordered not be read as part of the pleadings. Thereafter, an application was filed by the petitioner seeking review of the aforesaid order of the Trial Court dated 30.08.2016 which was dismissed by the Trial Court on 20.03.2017.

Admittedly, in response to respondents No.1 and 2's suit, the petitioner put in appearance before the Trial Court on 30.05.2016. As submitted by learned counsel for the petitioner, due to non-collection of record, the petitioner could not file his written statement within the stipulated period of 90 days after having put in appearance before the Trial Court and such written statement was filed on 16.09.2016.

In view of the above explanation by learned counsel for the petitioner and in 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 threshold of the litigation that he faces, subject to payment of ₹10,000/- as costs to be paid by the petitioner to respondents No.1 and 2, the impugned orders are set aside and the written statement filed by the petitioner on 16.09.2016 is permitted to be placed on the record.

The Trial Court shall ensure that the awarded costs ordered to be paid by the petitioner to respondents No.1 and 2 are transferred to their respective bank accounts.

The petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

November 19, 2019

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No