

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

Sr. No.233

CR-4557-2017 (O&M)

Date of decision: 16.07.2019

Kela Pati

....Petitioner

versus

Vijay Kumar and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Ajay Aggarwal, Advocate for
Mr. Sandeep Goyat, Advocate
for the petitioner.

None for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 25.05.2017 passed by the Additional Civil Judge (Senior Division), Loharu (for short – the Trial Court) through which the petitioner's defence has been struck off for non-filing of written statement within 90 days of having put in appearance before the Trial Court.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that respondent No.1 filed a suit seeking therein to restrain the defendants in the suit from interfering in his exclusive possession, alongwith other co-sharers, of land measuring 5 kanals 9 marlas detailed and described in the head note of the plaint (for short – the suit property). The defendants were further sought to be restrained from dispossessing respondent No.1/plaintiff and from changing the nature of the suit property without getting the same partitioned amongst its co-sharers. On being put to notice, the petitioner, who was defendant

No.3 in the suit, appeared before the Trial Court on 28.02.2017. For non-filing of written statement on 25.05.2017, the Trial court ordered the petitioner's defence to be struck off. Such order is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

In spite of service, no one has put in appearance on behalf of the respondents, hence proceeded against ex parte.

A perusal of the record reveals that the petitioner, who was defendant No.3 in the suit filed by respondent No.1, on being put to notice, had appeared before the Trial Court on 28.02.2017. Through the impugned order dated 25.05.2017, her defence has been struck off. Such order is found to be passed before the expiry of 90 days from the first date that she put in appearance before the Trial Court. That being so, the impugned order is set aside and the petitioner is granted one week to file her written statement.

Since the suit has been filed by respondent No.1 in the year 2016, it is directed that the Trial Court shall make every endeavor to dispose of the same expeditiously but not later than one year from the date of receipt of a certified copy of this order.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

July 16, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No