

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

CR no.5071 of 2018

Date of Decision: 10.04.2019

Ram Kishan

...Petitioner

Vs.

Gian Chand

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Sarju Puri, Advocate, for the petitioner.
Mr. Dinesh Nagar, Advocate, for the respondent.

Amol Rattan Singh, J (Oral)

By this petition, the petitioner challenges the order dated 20.03.2018 passed by the learned Civil Judge (Sr. Divn.), SBS Nagar (trial court), striking off the defence of the petitioner (defendant in the suit) on the ground that despite 90 days having elapsed since his appearance before that court after notice was issued in the suit, he had not filed the written statement.

Mr. Nagar, learned counsel for the respondent, submits that as a matter of fact the written statement was not filed despite costs also having been imposed upon the petitioner and he having been given sufficient opportunities to file the written statement and therefore, his *bona fides* are in question, the non-filing of written statement and the filing of this petition obviously being only to delay the proceedings in the suit.

Having considered the matter, though learned counsel for the respondent would obviously be right in view of the fact that when even

costs were earlier imposed the petitioner still did not file a written statement, yet keeping in view the fact that thereafter, between the time that the impugned order was passed on March 20, 2018 and the filing of this petition on July 30, 2018, only one PW has been examined, the petition may be allowed in my opinion, subject to payment of costs by the petitioner.

Accordingly, the petition is allowed with the impugned order set aside, subject to the petitioner paying costs of Rs.20,000/-, further subject to his filing a written statement within 10 days from today.

10.04.2019

vcgarg

(Amol Rattan Singh)

Judge

Whether speaking/reasoned : Yes

Whether reportable : Yes