IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.7134 of 2018
Date of decision: 19.07.2019

Gagandeep Singh ....Petitioner

Versus

Maharani Gita Devi and others ....Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr. A.S. Khinda, Advocate for the petitioner.

Mr. Naresh Prabhakar, Advocate for respondent No.1.

B.S. Walia, J. (Oral)

1. Revision petition has been filed under Article 227 of the Constitution of India praying for setting aside of order Annexure P-4 dated 16.8.2018 passed by the learned Civil Judge (Jr. Division), Kapurthala striking off the defence of petitioner-defendant No.1 on account of failure to file the written statement despite lapse of statutory period and availing number of opportunities.

2. A perusal of the impugned order dated 16.8.2018 reveals that despite having put in appearance on 2.11.2017 and availing number of opportunities, neither written statement nor reply to the application for stay was filed. The learned trial Court while taking into account that the statutory period had expired and no sufficient cause made out for adjourning the case, ordered the striking off defence of defendant No.1.

3. Learned counsel for the petitioner frankly concedes that although more than dozen opportunities were availed for filing of the written statement yet the written statement could not be filed on account of non-receipt of documents sought for by way of application under Order 11 Rule 14 CPC.

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4. Per contra, learned counsel for the respondent-plaintiff contends that the documents sought were record which could have been obtained from the Revenue Authorities therefore, filing of the application under Order 11 Rule 14 CPC was nothing except a dilatory tactic.

5. Learned counsel for the petitioner further states that evidence of the plaintiff is yet to commence on 1.8.2019 therefore, one opportunity be granted to the petitioner to file written statement subject to such terms as deemed appropriate by this Court failing which grave prejudice and irreparable damage would be caused to the petitioner on account of not being able to put up a defence.

6. Although the petitioner has not been diligent in filing the written statement within the stipulated period of time yet taking into account all aspects of the matter, I am of the considered view that the ends of justice would be met if one opportunity is granted to the petitioner to file written statement within a stipulated period of time subject to payment of costs.

7. In the circumstances, impugned order dated 16.8.2018 is set aside. Petitioner-defendant No.1 is permitted to file written statement within 7 days from today subject to payment of costs of ₹15,000/- to the respondent-plaintiff.

8. Revision petition is allowed in the aforementioned terms.

(B.S. WALIA)
JUDGE

July 19, 2019
ps

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

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