

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

**CR no.1829 of 2019 (O&M)
Date of Decision: 31.05.2019**

Maghar Singh

...Petitioner

Vs.

Sukhdev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Ramandeep Singh, Advocate, for the petitioner.

Amol Rattan Singh, J (Oral)

By this petition, the petitioner has challenged the order passed by the learned trial court (Civil Judge, Jr. Divn.), Khanna, dated 23.01.2019, by which his defence has been struck off on the ground that a written statement had not been filed despite 90 days having elapsed after he was shown to be served with notice of the suit.

Upon notice having been issued, Mr. Sushant Kareer, Advocate, appears for Mr. Harparteek Singh Sandhu, Advocate for the respondent and has filed a power of attorney executed in favour of the latter, which is taken on record.

Learned counsel for the respondent naturally opposes the petition on the ground that with no justification given by the petitioner for not having filed the written statement despite sufficient time given, the impugned order does not require to be interfered with.

Upon query, both the counsel are however *ad idem* that after the impugned order was passed, two witnesses for the plaintiff have been

examined, with their cross-examination still to be conducted on 01.07.2019.

That being so, it is considered appropriate that on the petitioner paying costs for delaying the trial to the respondent-plaintiff, the petition be allowed.

Consequently, upon the petitioner paying costs of Rs.3000/- to the respondent and filing a written statement on the next date of hearing before the trial court, which is stated to be 01.07.2019, the trial court would accept the written statement and proceed with the trial from that point onward.

Subject to the aforesaid conditions being met, i.e. payment of costs and filing of the written statement on 01.07.2019, the impugned order is set aside.

It is also made clear that if either of the two conditions is not met with, this order shall be deemed to have not been passed.

The Registry is directed to release the amount of Rs.10,000/- deposited by the petitioner to the counsel for the respondent for onward payment to the respondent.

It is further clarified that the costs of Rs.3000/- to be paid before the trial court to the respondent, is in addition to the amount of Rs.10,000/- ordered to be paid by way of pre-litigation expenses in respect of this petition.

31.05.2019
vcgarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned : Yes