

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

Sr. No.117

CR-1949-2019 (O&M)

Date of decision: 20.03.2019

Dalvir Singh

....Petitioner

versus

Sarita Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Mohan Singh Chauhan, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 14.12.2018 passed by the Civil Judge (Senior Division) (NRI Cases), Jalandhar (for short – the Trial Court) through which the petitioner's defence has been struck off for the reason that he did not file his written statement within 90 days from the date he 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 recovery of Rs.22,80,017/- alongwith interest. On being put to notice, the petitioner, who was defendant No.2 in the suit, put in appearance before the Trial Court on 18.07.2018 and thereafter, the suit was adjourned on four occasions to enable the petitioner to file his written statement but he did not do so. Resultantly, on 14.12.2018 the Trial Court struck off the petitioner's defence. Such order is under challenge in the present proceedings.

Learned counsel for the petitioner submits that the written statement on behalf of the petitioner was ready and the same could not be filed as the original copy of the same had been misplaced by the Clerk of the counsel for the petitioner appearing for him before the Trial Court. He submits that subject to imposition of reasonable costs one opportunity may be granted to the petitioner to file his written statement.

After considering the above facts and in line with the principles of natural justice as also for the reason that the petitioner may not be precluded from raising his written defence at the threshold of the litigation that he faces, subject to payment of Rs.10,000/- as costs to be paid by the petitioner to respondent No.1, the impugned order is set aside and the petitioner is granted ten days time from today to file his written statement.

The petition is allowed in the above terms.

If respondent No.1 is aggrieved by passing of the present order she is at liberty to approach this Court by filing of an appropriate application.

(DEEPAK SIBAL)
JUDGE

March 20, 2019
Jyoti 1

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No