

256

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.1962 of 2019

Date of Decision: 11.04.2019

Ramesh Kumar @ Monu

..... Petitioner

Versus

Gurjinder Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Gaurav Rana, Advocate,
for the petitioner.

Mr. G.S. Punia, Senior Advocate, with
Ms. Harveen Kaur, Advocate,
for the respondents.

SUDIP AHLUWALIA, J. (ORAL)

The present revisional petition is directed against the impugned order dated 10.01.2019 (Annexure P-9), passed by the Ld. Additional Civil Judge (Senior Division), Jagraon, in Case CS No.228 of 2015.

2. The background of the matter is that the petitioner, who is defendant No.1 in the said Civil Suit, had originally been proceeded against *ex-parte*, but moved an application to set aside the said *ex-parte* order on 06.10.2018, which was almost three years after filing of the Suit. The

ex-parte order was set aside, subject to imposition of costs and with a condition that his written statement should be filed on the designated date.

He, however, failed to file the written statement on the date of the impugned order, inspite of having paid the costs imposed upon him. Consequently, the Ld. Trial Court declined his prayer to file the written statement and debarred him from prosecuting his case for non-compliance of the previous order.

3. It now transpires that the next date fixed in the Ld. Trial Court happens to be 20.04.2019, for hearing on one of his applications seeking dismissal of the Suit.

4. In the interest of substantial justice, considering that the Suit has not yet been decided on merits, the present petition is disposed off and the petitioner is granted liberty to file his written statement, regardless of the pendency of any other application(s) filed by him on or before the next date fixed, and that shall have to be done independent of whatever orders on the pending applications are passed. Further, he shall also pay compensatory costs of ₹10,000/- to the respondent/plaintiff as another condition precedent for acceptance of his written statement.

5. It is further made clear in view of the submission of Ld. Counsel for the respondent/plaintiff that the present petitioner along with his brother, who is otherwise defendant No.2 and is also occupying the demised shop jointly with the present petitioner and whose defence has already been struck off, might prefer to adopt similar dilatory tactics seeking to challenge the order striking out his defence at any belated stage,

in the event of any such proceeding being initiated, this Court would duly take notice of this submission/apprehension expressed by the respondents' Ld. Counsel and act appropriately.

11.04.2019
Apurva

(SUDIP AHLUWALIA)
JUDGE

1. Whether speaking/ reasoned : Yes/ No
2. Whether reportable : Yes/ No