

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 113

CR-2771-2019

Date of decision : 30.04.2019

Munish Kumar

..... Petitioner

VERSUS

Narinder Singla

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. A. K. Walia, Advocate, for the petitioner.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 15.01.2019, passed by the Civil Judge (Senior Division), Sangrur (for short, the Trial Court), striking of the petitioner's defence for the reason that he did not file his written statement within the prescribed period of ninety days after having put in appearance and after having availed several opportunities for the same.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition are that the respondent filed a suit seeking therein specific performance of agreement to sell dated 08.03.2016 allegedly executed by the petitioner pertaining to his house measuring 50 square yards situated in Uppli Road, Near Railway Phatak, Uppli, Tehsil & District Sangrur (for short, the suit property). In the alternative, recovery of ₹2,50,000/- alongwith interest was sought. It was further prayed that injunction be granted to restrain the petitioner/defendant from transferring, alienating, mortgaging or making any addition or deletion in the suit property.

On being put to notice, the petitioner, who was defendant in the suit, appeared before the Trial Court but did not file his written statement

within the prescribed period of ninety days after having put in appearance and after having availed several opportunities for the same. Thereafter, the Trial Court, through the order under challenge in the present proceedings, struck off his defence.

Learned counsel for the petitioner submits that the petitioner could not file his written statement within the prescribed period of ninety days due to miscommunication between himself and his counsel and the delay, if any, was bonafide. He further prays that subject to payment of reasonable costs, the petitioner be granted one opportunity to file his written statement.

After considering the afore-submissions made by learned counsel for the petitioner and in line with the principles of natural justice as also not to preclude the petitioner from raising his defence at the threshold of the litigation which he is facing, subject to payment of ₹25,000/- as costs, to be paid by the petitioner to the respondent, the impugned order is set aside and the petitioner is permitted to file his written statement within ten days from today.

The Trial Court shall ensure that the costs ordered to be paid by the petitioner to the respondent are transferred to the respondent's bank account.

The petition is allowed in the above terms.

If the respondent is aggrieved by passing of the present order, he is at liberty to approach this Court by filing of an appropriate application.

30.04.2019
shamsher

[DEEPAK SIBAL]
JUDGE

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