

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

C.R. No. 3197 of 2019

DATE OF DECISION :- September 18, 2019

Inder Kumar Jain

...Petitioner

Versus

Smt. Usha Puri and another

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Sachin Mittal, Advocate for the petitioner.

Mr. Ishaan Thakur, Advocate
for Mr. S.K. Mahajan, Advocate for respondent No. 2.

In a suit for grant of permanent and mandatory injunction filed by Smt. Usha Puri against defendants Inder Kumar Jain and another, since defendant No. 1 Inder Kumar Jain neither filed written statement within time nor paid the cost imposed upon him, his defence was struck off by the trial Court vide impugned order dated 18.3.2019. The defendant No. 1 had moved a review application offering to pay the cost and allowing him to defend the suit by way of filing written statement but that application was also dismissed vide order dated 24.4.2019.

Feeling aggrieved, defendant No. 1 has approached this Court by way of filing the present revision petition, notice of which was given to the respondents. Only respondent No. 2 has put in appearance through counsel and respondent No. 1-plaintiff has not appeared despite service.

I have heard learned counsel for the revisionist as well as learned counsel for respondent No. 2-Municipal Corporation, Gurugram

besides going through the record.

No doubt the trial Court cannot be faulted for passing the impugned orders on any account but the order if allowed to continue would certainly cause prejudice to the revisionist and he would not be allowed to defend the suit. Rules of natural justice provide that nobody should be condemned unheard. No doubt the revisionist/defendant No. 1 has shown negligence in not filing the written statement within time and not paying the cost imposed upon him but ends of justice demand that he should be given one more opportunity to file the written statement and to pay the cost of Rs.500/-. For delaying the matter he can be made liable to pay further cost, therefore, the revision petition is accepted.

The impugned orders are set aside subject to payment of Rs.10,000/- as costs. The trial Court would afford one more opportunity to the revisionist file the written statement fixing a date for that purpose. Payment of cost shall be a condition precedent for granting opportunity to the revisionist/defendant No. 1 to file written statement. Out of this amount Rs.5,000/- be deposited with Legal Service Authority, Gurugram and Rs.5,000/- be paid to the plaintiff which would cover the cost of Rs.500/- imposed by the trial Court upon revisionist/defendant No. 1. The parties are directed to appear in the trial Court on 15.10.2019.

(H.S. MADAAN)
JUDGE

September 18, 2019
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No