

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

CR No.3196 of 2019

Date of Decision:30.09.2019

RAVINDER

...Petitioner

Versus

KAVITA DEVI AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Madan Sandhu, Advocate
for the petitioner.

Mr. Wazir Singh, Advocate
for the respondents.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 23.04.2019 passed by the Civil Judge (Junior Division), Karnal (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 the prescribed period of ninety days.

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 to be declared owner in joint possession of land detailed and described in the head-note of the plaint (for short-the suit property). Release deed dated 11.02.2013 and mutation No.2602 of 26.02.2013 were also challenged. Consequential relief of permanent injunction to restrain the

petitioner/defendant from alienating or creating any charge on the suit property was also sought.

On being put to notice, the petitioner/defendant appeared before the Trial Court on 03.01.2019. He prayed for and was granted time to file his written statement. Thereafter the matter was adjourned to 21.02.2019 on which date the petitioner failed to file his written statement causing the suit to be adjourned to 23.04.2019. On 23.04.2019 also, the petitioner did not file his written statement resulting in passing of the impugned order striking off his defence.

Learned counsel for the petitioner submits that only two opportunities were granted to the petitioner to file his written statement within which he could not do the needful due to some miscommunication between the petitioner and the counsel appearing for him before the Trial Court. He further submits that his written statement is now ready and the same can be filed at any time if so permitted by this Court.

Learned counsel for the respondents submits that adequate time was granted to the petitioner to file his written statement and therefore, the Trial Court has rightly passed the order of striking off his defence.

After considering the submissions raised by both the parties 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 ₹10,000/- as costs, to be paid by the petitioner to the respondents, the impugned order is set aside and the petitioner is permitted to file his written statement within one week from today.

The Trial Court shall ensure that the costs ordered to be paid by the petitioner to the respondents are transferred to the respondents' bank accounts.

The petition is allowed in the above terms.

September 30, 2019

Jyoti-IV

(DEEPAK SIBAL)
JUDGE

Whether speaking/reasoned Yes/No Whether Reportable Yes/No