

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No. 111-Final

Case No. : C. R. No. 5149 of 2019

Date of Decision : October 17, 2019

Ram Kishan Petitioner
vs.
Ashok Kumar and another Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL.

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Present : Mr. Abhimanyu Singh, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral) :

The present petition is directed against the order dated 03.10.2017 passed by the Civil Judge (Junior Division), Bhiwani (for short – the Trial Court) striking off the petitioner's defence for the reason that in spite of grant of adequate number of opportunities, the petitioner had not filed his written statement.

The facts, in brief, which would be required to be noticed for adjudicating upon the present petition, are that the respondents filed a suit for injunction with regard to the property detailed and described in the head note of the plaint (for short – the suit property). The petitioner, who was the defendant in the suit, was further sought to be restrained from raising any construction or from changing the nature of the suit property.

On being served, the petitioner appeared before the Trial Court on 01.05.2017 and thereafter, was granted five months to file his written

statement but when he failed to do the needful, through order dated

03.10.2017, the Trial Court struck off his defence. Such order of the Trial Court is under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

It is the admitted position that on being served in the respondents' suit, the petitioner appeared before the Trial Court on 01.05.2017 and did not file his written statement till 03.10.2017 resulting in the passing of the order of the Trial Court striking off his defence. No explanation is forthcoming from the learned counsel for the petitioner as to why for a period of five months, the petitioner did not file his written statement.

Even after passing of the impugned order on 03.10.2017, the petitioner continued to participate in the proceedings before the Trial Court for nearly two years, during which period the respondents/plaintiffs led their evidence in the form of examination of witnesses, who were also cross-examined by the petitioner. When the suit was listed for final arguments, the present petition has been filed without any explanation for the delay in filing of the same.

In view of the above unexplained delay by the petitioner in filing of his written statement as also in filing of the present petition, no merit is found in the present matter, especially when the respondents' suit is now listed before the Trial Court for final arguments. For the negligence on the part of the petitioner, it is only he who is required to suffer.

Dismissed.

(DEEPAK SIBAL)
JUDGE

October 17, 2019