

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

Sr. No.120

CR No.5317 of 2019

Date of decision: 02.09.2019

M/s Sri Ram Transport Finance Company Limited

....Petitioner

versus

Palwinder Kumar

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Anil Mehta, Advocate
for the petitioner.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 28.01.2019 passed by the Civil Judge (Junior Division), Hoshiarpur, (for short – the Trial Court) striking off the petitioner's defence for the reason that it had not filed its written statement even after grant of several opportunities and imposition of costs.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit seeking therein to declare the claim of ₹11,02,097/- made by the petitioner against him as null and void. Permanent injunction to restrain the petitioner from forcibly recovering the aforesaid amount was also sought. On being put to notice, the petitioner, who was defendant in the suit, appeared before the Trial Court on 10.09.2018 but when till 28.01.2019 it did not file its written statement, the Trial Court ordered striking off its defence. Such

order of the Trial Court is under challenge in the present proceedings.

Learned counsel for the petitioner submits that the petitioner could not file its written statement within the stipulated period of three months after putting its appearance before the Trial Court for the reason that the documents being collected in support of its defence took sometime. It is further submitted that all the relevant documents have now been procured and if one opportunity is granted to the petitioner it would file its written statement within the time so granted by this Court.

After going through the above submissions made by learned counsel for the petitioner and in line with the principles of natural justice as also for the reason that the petitioner may not be precluded from raising its defence at the initial stage of the litigation that it faces, subject to payment of ₹20,000/- as costs, the impugned order is set aside and the petitioner is granted one weeks time to file its written statement.

The Trial Court shall ensure that the awarded costs ordered to be paid by the petitioner to the respondent are transferred to his 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.

(DEEPAK SIBAL)
JUDGE

September 02, 2019

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No