

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

**CR No.5185 of 2019**

**Date of Decision:29.08.2019**

**JASGIR SINGH @ JAGTAR SINGH**

**...Petitioner**

**Versus**

**SHINDERPAL SINGH AND OTHERS**

**..Respondents**

**CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL**

Present: Mr. Kashish Garg, Advocate  
for the petitioner.

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**DEEPAK SIBAL, J. (ORAL)**

The present petition is directed against the order dated 03.07.2019, passed by the Civil Judge (Junior Division), Bathinda (for short, the Trial Court), striking off 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 respondents No.1 to 3 filed a suit seeking therein to be declared owners in possession to the extent of 2/5<sup>th</sup> share in 7/8 share of land detailed and described in the head note of the plaint (for short the suit property). Mutation No.6660 dated 05.07.2008 regarding land measuring 40 kanals 3 marlas as also judgment and decree dated 30.04.1998 passed in civil suit No.67 of 20.01.1995, were also

challenged.

On being put to notice, the petitioner, who was defendant No.1 in the suit, appeared before the Trial Court on 14.06.2018 but did not file his written statement within the prescribed period of ninety days after having put in appearance. Therefore, the Trial Court, through the order under challenge in the present proceedings, ordered the striking 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 a communication gap between himself and his counsel appearing for him before the Trial Court and the delay, if any, was bonafide. It is further submitted that the petitioner has changed his counsel before the Trial Court and subject to payment of reasonable costs to be assessed by this Court, 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 that he is facing, subject to payment of ₹20,000/- as costs, to be paid by the petitioner to respondents No.1 to 3, 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 respondents No.1 to 3 are transferred to their bank accounts.

The petition is allowed in the above terms.

If the respondents are aggrieved by passing of the present order, they are at liberty to approach this Court by filing of an appropriate application.

August 29, 2019

(DEEPAK SIBAL)

JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No