

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

Sr. No.114

CR No.5401 of 2019

Date of decision: 04.09.2019

Navneet Kaur alias Simranjeet Kaur

....Petitioner

versus

Major Singh and others

....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

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

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 19.08.2019 passed by the Civil Judge (Junior Division) Amloh (for short – the Trial Court) through which respondent No.1-Major Singh has been permitted to be examined as a witness of respondent No.5-Gurdeep Singh.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the petitioner filed a suit in which respondent No.1-Major Singh was defendant No.1. Since after having been put in appearance before the Trial Court, the said Major Singh did not file his written statement within the prescribed period of 90 days, his defence was ordered to be struck off. He challenged such order through a petition filed before this Court being CR No.1809 of 2019 – Major Singh versus Navneet Kaur @ Simranjeet Kaur and others, which was allowed on 02.05.2019 in the following terms:-

“After considering the above facts and

taking a rather lenient view in the matter and in line with the principles of natural justice as also for the reason that the petitioner may not be precluded from raising his defence at the threshold of the litigation which he is facing, subject to payment of Rs.30,000/- as costs to be paid by the petitioner to respondent no. 1, the impugned order is set aside and the petitioner is granted 10 days time to file his written statement.”

As per the afore-quoted order, respondent No.1-Major Singh, subject to payment of Rs.30,000/- as costs, was permitted to file his written statement within 10 days from the passing of the afore-quoted order. The Court is informed that neither the awarded costs were paid by respondent No.1 nor did he file his written statement. However, respondent No.5-Gurdeep Singh, who was also a defendant in the petitioner's suit, produced him as his own witness. This was objected to by the petitioner on the ground that since Major Singh's defence had been ordered to be struck off, he could not be allowed to state his case through his appearance as a witness for another defendant/respondent No.5-Gurdeep Singh. The Trial Court rejected the petitioner's objections through the order under challenge in the present proceedings.

Learned counsel for the petitioner has been heard.

It is true that on a challenge made by respondent No.1-Major Singh to the order striking off his defence, subject to payment of costs, this Court had permitted him to file his written statement. However, since neither the awarded costs were deposited by him nor did he file his written statement, his defence continues to be struck off and resultantly, in the absence of pleadings, he cannot be allowed to lead evidence in support of

his case. However, there is no legal impediment for Major Singh to be produced as a witness by any other defendant in the suit in support of his/her case and therefore, no error is found in the order of the Trial court permitting Major Singh to be examined as a witness of respondent No.5-Gurdeep Singh in support of the case set up by the said Gurdeep Singh.

Dismissed.

(DEEPAK SIBAL)
JUDGE

September 04, 2019
Jyoti 1

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No