

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6602-2019 (O&M)
Date of decision: 05.12.2019

Surjeet Singh

.....Petitioner

versus

Karnail Singh and another

.....Respondents

CORAM: Hon'ble Mr. Justice Deepak Sibal

Present: Mr.Naveen Kumar Jaglaon, Advocate for the petitioner

Deepak Sibal, J. (Oral)

The present petition is directed against the order dated 28.08.2019 passed by the Civil Judge (Junior Division), Naraingarh (for short, the Trial Court), striking off the petitioner's defence.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that respondent no.1 filed a suit seeking therein to be declared owner in possession of land measuring 4 kanals detailed and described in the head of the plaint (for short, the suit property). On being put to notice, the petitioner, who was defendant no.2 in the respondent no.1's suit, appeared before the Trial Court but when even after grant of five opportunities he did not file his written statement, the Trial Court ordered striking off of his defence. Such order of the Trial Court is under challenge through the present proceedings.

Learned counsel for the petitioner submits that the petitioner could not file his written statement as some time was required by him to collect record to facilitate filing of an effective written statement; there was some miscommunication between him and his counsel and that on the date

when the impugned order was passed he was undergoing treatment. He prays for grant of one opportunity for filing of written statement.

After considering the above submissions raised 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 proceedings filed against him, subject to payment of ₹20,000/- as costs, to be paid by the petitioner to respondent no.1, the impugned order is set aside and the petitioner is granted one week's time to file his written statement before the Trial Court.

The petition is allowed in the above terms.

The Trial Court shall ensure that the costs ordered to be paid by the petitioner to respondent no.1 are transferred to the respondent no.1's bank account.

If respondent no.1 is aggrieved by passing of the present order, he is at liberty to approach this Court by filing of an appropriate application.

05.12.2019

gk

**(Deepak Sibal)
Judge**

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No