

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

Sr. No.113

CR No.7842 of 2019

Date of decision: 06.12.2019

Narinder Singh

....Petitioner

versus

Surjit Singh

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. N.S. Gill, Advocate for
Mr. Munish Gupta, Advocate
for the petitioner.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 05.08.2019 passed by the Civil Judge (Senior Division), Hoshiarpur, (for short – the Trial Court) striking of the petitioner's defence for the reason that in spite of grant of sufficient opportunities, the petitioner did not file his written statement.

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 restrain the petitioner, who was the sole defendant in the suit, from cutting 110 Safeda trees growing in the land detailed and described in the head note of the plaint. On being put to notice, the petitioner appeared before the Trial Court on 30.01.2019 and thereafter was granted four opportunities to file his written statement but to no avail, leading to the passing of the impugned order by the Trial Court striking of the petitioner's defence.

Learned counsel for the petitioner submits that the petitioner

could not file his written statement in time as he was in the process of collecting documents/information to enable him to file an effective written statement and that there was some miscommunication between him and his counsel appearing for him before the Trial Court whom he has now changed. Learned counsel for the petitioner prays that one opportunity be granted to the petitioner to file his written statement.

After considering the above pleas raised on behalf of 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 his defence at the threshold of the litigation that he faces, subject to payment of ₹15,000/- as costs to be paid by the petitioner to the respondent, the impugned order is set aside and the petitioner is granted one weeks time to file his written statement.

The petition is allowed in the above terms.

The Trial Court shall ensure that the awarded costs ordered to be paid by the petitioner to the respondent are transferred to respondent's bank account.

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

December 06, 2019

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No