

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

CR No. 176 of 2020(O&M)

Date of decision: 13.1.2020

Gurdev Kaur

.....Petitioner

VERSUS

Gurpreet Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Gulzar Mohammad, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

Challenge in the present petition has been directed against order dated 26.11.2019 (Annexure P-3) passed by the Civil Judge (Junior Division), Khanna whereby defence of the petitioner/defendant has been struck off for want of filing of written statement within the stipulated period of 90 days.

The sole submission made by counsel for the petitioner is that as the case is still pending for service of other defendants, noticed in the impugned order, the trial Court should not have closed right of the petitioner to file the written statement which is of serious consequence. He would pray that the petitioner may be allowed one opportunity to file the written statement on or before 11.02.2020, the date fixed for service of other defendants.

Perusal of the impugned order would reveal that the Court has interpreted the provisions of Code of Civil Procedure, 1908 in strict sense and shut right of the petitioner/defendant to file the written statement

without appreciating that even if the petitioner is allowed another opportunity to file the written statement, it would neither delay the trial nor cause prejudice to the respondent/plaintiff. There cannot be dispute that rules of procedure are handmaid of administration of justice and the same are required to be applied to enhance cause of justice and not to thwart the same. In the given circumstances, order passed by the trial Court closing right of the petitioner to file the written statement or striking off his defence is set aside. The petitioner is allowed one more opportunity to file the written statement on or before 11.02.2020. In case the petitioner fails to file the written statement within the stipulated period, the petition shall be deemed to be dismissed.

JANUARY 13, 2020		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no