

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

CR-1864-2021(O&M)

Date of decision: 09.09.2021

Amrik Singh

...Petitioner

Versus

Joginder Singh and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Saurav Bhatia, Advocate,
for the petitioner.
(Presence marked through video conference).

ARUN MONGA, J. (ORAL)

Inter alia contends that in the earlier round of claim petition, which was dismissed as withdrawn, the petitioner herein (respondent therein) had filed his written statement but in the subsequent institution of the second claim petition, he had though prepared his written statement but could not file the same on time leading to passing of the impugned order, vide which his defence has been struck off.

Learned counsel for the petitioner contends that petitioner is the owner of the offending car and in the absence of his defence, irreparable loss would be caused to him qua the liability, which may be fastened on him for lack of his defence. He submits that petitioner is 90% disable and unable to walk and therefore cannot even attend the court hearings in person. He is to necessarily depend on his counsel and others to follow up his interest. He submits that claim petition was listed for 27.01.2021. Petitioner caused his appearance through his counsel on 12.02.2021, who filed his power of attorney and sought time to file written statement on the adjourned date i.e. 09.03.2021. On the said date, matter was adjourned to 22.03.2021 on which

date, the learned Presiding Officer was since on leave and therefore it was once again adjourned to 16.04.2021. In the interregnum, though the written statement, which is essentially on the same lines as was already filed in the earlier claim petition had been re-prepared for fresh signatures and had been sent to the petitioner for the needful, But he could not send it back to his counsel on time after signing the same. Resultantly, when his counsel sought further time to do the needful, vide impugned order dated 16.04.2021, right of the petitioner-respondent to file written statement has been struck of.

Given the nature of order being passed, no notice is being issued of the other side as no prejudice would be caused to the claim petitioner by virtue of the instant order.

Having heard learned counsel for the petitioner and on a perusal of the petition filed before this Court, I am of the view that interest of justice would be met if subject to certain costs, one more opportunity is granted to file the written statement. Since the non-filing thereof does not seem to be deliberate as is borne out from the earlier round of litigation, where the petitioner had already filed his written statement to the claim petition and on merits, broadly the contents of the claim petition remain the same even in the second round.

In the premise, fresh written statement does not require much of effort other than resigning of the same by the petitioner. In the peculiar premise, the impugned order is set aside with liberty to the petitioner to file his written statement on or before the date fixed before the trial Court. In case, needful is not done, no further opportunity shall be granted.

The writ petition is allowed subject to costs, which are assessed at Rs.10,000/-. By way of imposition of costs, petitioner shall plant 75 trees of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia, in the vicinity of his residence where he is residing. Plantation shall be carried out under the supervision of the concerned District Horticulture Officer, who shall give a letter of proof to the MACT of having carried out the plantation of the trees as per the orders of this Court.

Court below to ensure compliance thereof. In case, the petitioner defaults in doing so, liberty is granted to the Registry to place the matter before this Court to report non-compliance. Proof of plantation be also furnished by the petitioner in the Registry of this Court, along with supporting letter from horticulture department, to be placed before this Court upon receipt thereof.

09.09.2021

vandana

(ARUN MONGA)

JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No