

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

CR-3445-2021

Date of Decision: 22.12.2021

PRITAM SINGH

...Petitioner

Versus

RANVIR SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Amandeep Singh Manaise, Advocate
for the petitioner.

(Presence marked through Video Conference)

ARUN MONGA, J. (ORAL)

Petitioner assails an order dated 14.10.2021 (Annexure P-3) passed by learned Civil Judge (Junior Division), Gurdaspur, vide which, his defence has been struck off on account of his failure to file the written statement.

2. Learned counsel for the petitioner submits that the respondent/plaintiff filed a suit for recovery of Rs.77,000/- along with interest, whereby, it has been alleged that the petitioner/defendant booked a marriage palace for the wedding of his daughter, scheduled on 27.11.2019, for a total agreed amount of Rs.87,000/-. However, as an advance booking amount, the petitioner had paid Rs.10,000/- and the balance payment of Rs.77,000/- was to be paid by him on the date of function but on the scheduled date of function, neither the defendant turned up nor he gave any response. Upon notice, the petitioner/defendant appeared through his counsel on 27.01.2021 and the case was adjourned to 22.03.2021 for filing the written statement. Thereafter, due to non-filing of written statement, the case was adjourned to 21.05.2021. Vide order dated 21.05.2021, the case was adjourned to 12.08.2021 as on the said date, no one turned up on behalf of the parties due to the pandemic of Covid-19. Thereafter, it was adjourned to 21.09.2021 and again for 14.10.2021 due to non-filing of written

statement. The defence of the petitioner/defendant was eventually struck off vide impugned order dated 14.10.2021 (Annexure P-3) by the learned trial Court due to his failure to file written statement.

3. Learned counsel for the petitioner submits that though the reply of petitioner was duly prepared on 14.10.2021, but due to advocate's strike at District Court, Gurdaspur on the said date, it could not be filed, which led to the passing of impugned order. He further submits that the petitioner moved an application dated 07.12.2021 before the trial Court for setting aside the aforesaid order, but the same was not entertained being not maintainable. Hence the instant petition.

4. Learned counsel argues that impugned order has resulted in grave miscarriage of justice. For effective and proper adjudication of the case on its merits, the petitioner be permitted to file his written statement.

5. I have heard learned counsel for the petitioner and perused the case file.

6. Given the nature of order being passed, there is no necessity to issue notice as no further proceedings and/or pleadings are required.

7. It is trite law that Rules of procedure are handmaids of justice. Any interpretation thereof that leads to foil real and substantial justice between the parties ought to be discouraged. More so, in the case in hand, on the appointed day, reply/affidavit was ready but seems that due to advocate's strike on the said date, it could not be filed. In any case, no prejudice would be caused to the respondent if the petitioner is permitted to file his written statement even at this stage. Even otherwise, provision contained in Order 8 Rule 1 of CPC, has been held to be directory in nature by Supreme Court in ***Salem Bar Association Vs. UOI, 2005(6) SCC 344***. The Courts should ordinarily, therefore, not take too harsh a view to strike off the defense at very early stage.

8. The counsel for the petitioner undertakes to file the written statement on the adjourned next date.

8. For the foregoing reasons, I deem it appropriate to grant one more opportunity to the petitioner for filing the written statement subject to plantation of 50 trees of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia, in the neighbourhood, where he resides. Plantation shall be carried out under the supervision of the

District Horticulture Department. 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 thereof. Proof of plantation to be furnished by the petitioner in the Registry of this Court, along with supporting letter from the horticulture department, to be placed before this Court upon receipt thereof. The impugned order dated 14.10.2021 (Annexure P-3) is modified to that extent and the revision petition is disposed of accordingly.

(ARUN MONGA)
JUDGE

22.12.2021
gurpreet

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