

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

119

CR No.338 of 2022 (O&M)
DATE OF DECISION : 02nd FEBRUARY, 2022

Chander Bhan Singh @ Nain Singh

.... **Petitioner**

Versus

Chaman and others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Ashwani Gaur, Advocate for the petitioner.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

CM-852-CII-2022

The counsel for the petitioner seeks permission to withdraw the present application.

Dismissed as withdrawn.

Main Case

This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 29.10.2018 (Annexure P-3) passed by the Civil Judge (Junior Division), Sonapat, vide which the defence of the petitioner/defendant has been struck off.

It is submitted by the counsel for the petitioner that the petitioner could not file the written statement within the time granted by the Court because of the unavailing circumstances. Although, the counsel for the petitioner was appearing before the Court below, however, due to

communication gap, the written statement could not be filed. It is further submitted that; otherwise also; the case has not proceeded any further from the stage of service upon the parties, therefore, no person would suffer any prejudice, if the petitioner is granted one more opportunity to file the written statement and to defend the suit accordingly.

In view of order which this Court intends to pass, this Court does not deem it necessary to issue notice to the other side.

A perusal of the record shows that the petitioner has been granted several opportunities, including the designated last opportunity, to file the written statement. However, the petitioner did not make use of the said opportunities. Therefore, on the face of it, there does not appear to be any impropriety in the order passed by the Court below, whereby the petitioner was denied any further opportunity to file the written statement. However, it is a settled law that procedural law is handmade to advance the disbursal of the substantial justice. In case of conflict between the two, the Court has to lean towards the interest of the substantial justice. Moreover, the case is still at the initial stage of service of process upon the parties and of filing the pleadings. Therefore, none of the parties would be adversely affected, if the petitioner is granted one more effective opportunity to file his written statement and to contest the suit accordingly, however, by putting him under an appropriate financial burden.

In view of the above, the impugned order is set aside. The present revision petition is disposed of with a direction to the trial Court to grant one more effective opportunity to the petitioner to file his written statement, however, subject to payment of ₹10,000/- as costs, to be

deposited with the Patients Care Funds, PGIMS, Rohtak, within a period of 15 days from today.

However, it is clarified that the trial Court shall grant the above said opportunity to the petitioner to file the written statement and to defend the suit only on production of the receipt of the costs having been deposited, as ordered above.

02nd FEBRUARY, 2022
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>