

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

CR-4604-2017 (O&M)

Date of decision: 12.12.2022

Monika Saini

...Petitioner

Versus

Santosh Saini and others

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S. MADAAN

Present: Mr. Harsh Chopra, Advocate for the petitioner.

None for respondent No.1.

H.S. MADAAN, J. (Oral)

The grouse of the revisionist Monika Saini, who is defendant No.2 in a civil suit filed by plaintiff Santosh Saini against several defendants, is aggrieved by an order dt. 20.10.2015, passed by Civil Judge (Jr. Divn.), Jalandhar, vide which her defence was struck off.

It is submitted by learned counsel for the revisionist that non-filing of written statement on behalf of revisionist/defendant No.2 within stipulated period of 90 days was not intentional but on account of the fact that she was blessed with a child on 01.08.2015 and on account of lack of communication with her counsel in the trial Court, the written statement could not be filed. The revisionist/defendant No.2 has got a sound defence to offer and in case she is deprived from

contesting the suit, she will suffer a grave prejudice.

Notice of the revision petition was given to respondent No.1/plaintiff but she did not appear despite service.

I have heard learned counsel for the revisionist/defendant No.2 besides going through the record.

No doubt, revisionist/defendant No.2 should have been vigilant enough to file written statement within 90 days of putting in appearance in the Court, however, the interest of justice demands that every litigant should be given a chance to contest the case against him/her, rather than non-suiting such person on technical grounds. Furthermore, the explanation offered by learned counsel for the revisionist seems to be somewhat convincing. On account of revisionist/defendant No.2 having caused the delay, she can be burdened with costs. Therefore, the instant revision is allowed. The order under revision is set aside, and revisionist/defendant No.2 is afforded an opportunity to file the written statement, subject to payment of Rs.10,000/- as costs. Payment of costs shall be a condition precedent for grant of opportunity to revisionist/defendant No.2 to file written statement. She would bring a demand draft in the sum of Rs.10,000/- in the name of the plaintiff, which she would hand over to her/her counsel in the Court and thereafter, written statement filed by her would be taken on record.

It is made clear that only one opportunity is being granted

to the revisionist/defendant No.2 to file the written statement and she would not be entitled to any further opportunity.

12.12.2022
sumit.k

(H.S. MADAAN)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No