

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

CR No.601 of 2020
Decided on : 04.08.2022

Jasbir Kaur

... Petitioner

Versus

Naseeb Kaur & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Sanjeev Sharma, Advocate
for the petitioner.

MANJARI NEHRU KAUL,J. (ORAL)

Instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 14.11.2019 passed by learned Civil Judge (Jr. Divn.), Khanna (Annexure P-1) vide which the defence of the petitioner-defendant was struck off.

Learned counsel for the petitioner *inter alia* contends that the petitioner appeared before the trial Court on 09.07.2019 and thereafter the case was adjourned to 06.08.2019 for filing of written statement. However, on 06.08.2019 learned presiding officer was on leave and the case was adjourned to 03.10.2019. The petitioner was unable to file the written statement on 03.10.2019 due to which case was further adjourned to 14.11.2019. On 14.11.2019, an application for grant of adjournment was filed on behalf of the petitioner for filing written statement as he was under a bona fide impression that the case was fixed for service of other defendants as well as for impleading the legal representatives of defendant No.1. Further, Jarnail Singh, attorney of the petitioner was suffering from

viral fever due to which the written statement could not be prepared. The medical prescription dated 13.11.2019 was also placed on record, however, the trial Court proceeded to strike off the defence vide the impugned order. It is submitted that it was neither intentional nor mala fide rather on account of the genuine reasons that the petitioner was unable to file his written statement. A prayer has, therefore, been made that a compassionate view be taken since the case is still at a very initial stage and the impugned order be set aside.

I have heard learned counsel and perused the material on record.

A perusal of the record reveals that the petitioner has indeed been negligent in pursuing the case. However, at the same time this Court is also conscious that if the petitioner is not granted one more opportunity to file his written statement, he would suffer irreparable loss which in turn would result in miscarriage of justice, more so, when the case is still at a very nascent stage. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to file his written statement.

In the wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which the respondent shall have to incur to defend these proceedings, the impugned order dated 14.11.2019, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to file her written statement.

2. In the event of default by the petitioner, the case shall not be adjourned any further for filing of her written statement and consequently her defence shall be deemed to be struck off.
3. This, however, shall be subject to payment of costs in the sum of Rs.10,000/- to be paid to the respondents, which shall be a condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

04.08.2022
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Whether speaking/reasoned?	Yes/No
Whether reportable ?	Yes/No