

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

CR No.1599 of 2020

Date of decision: 31st August, 2022

Amar Nath

... Petitioner

Versus

Kulwinder Singh

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Namit Khurana, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

In compliance of order dated 05.03.2020, learned counsel for the petitioner has filed copies of the zimni orders passed by the Court below. The same are taken on record.

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 16.01.2020 passed by learned Civil Judge (Jr. Divn.), Sub Division Bilaspur (Annexure P-3) vide which the defence of the petitioner/defendant was closed by Court order.

Learned counsel for the petitioner *inter alia* contends that after issuance of notice of the suit, the petitioner appeared and filed his written statement. He submits that the case was adjourned on multiple occasions for the prosecution evidence as well as that of the defence, however, the petitioner was unable to do so on account of the restricted

functioning of the Courts due to the outbreak of the pandemic COVID-19. Still further, due to some miscommunication between the petitioner and his counsel, which too was on account of the outbreak of the pandemic, he was not aware about the various dates of hearing. Learned counsel submits that the petitioner came to know about the interim order only after engaging a new counsel and since the petitioner is not well versed with the nitty gritty of the Court proceedings, a lenient view be taken, coupled with the fact that the Hon'ble Apex Court had also been taking a lenient view and extending the period of limitation on account of the conditions subsequent to the outbreak of the pandemic. It is submitted that it was on account of the genuine reasons that the petitioner was unable to lead evidence. A prayer has, therefore, been made that a compassionate view be taken 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 due to the restrictions imposed subsequent to the outbreak of the pandemic COVID-19, normal life had been disrupted. In the circumstances, this Court is of the opinion that if the petitioner is not granted one more opportunity to lead his evidence, he would suffer irreparable loss which in turn would result in

miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to lead his evidence.

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 16.01.2020, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to lead his evidence.
2. In the event of default by the petitioner, the case shall not be adjourned any further for defence evidence and consequently his defence shall be deemed to be struck off.
3. This, however, shall be subject to payment of costs in the sum of ₹ 10,000/- to be paid to the respondent which shall be a condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

August 31, 2022

rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No