

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

121

CR-1083-2022

Date of decision: 11.07.2022

Joginder Singh

.....Petitioner

Versus

M/s Mahavir Proprieties and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Abhishek Chha, Advocate for
Mr. Mandeep Singh, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioner by way of the instant revision petition is seeking the setting aside of order dated 21.12.2021 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.), Chandighr vide which his defence was struck off.

Learned counsel for the petitioner submits that on receipt of summons in the suit for recovery instituted by the plaintiff, he had put in an appearance on 08.07.2021 and thereafter adjournment was sought for filing of the written statement, however, thereafter on account of the outbreak of the pandemic coupled with the fact that the petitioner who is a 90 years old man was ailing, the case was adjourned on a few dates. Learned counsel submits that since the trial is still at the initial stage as evidence is yet to commence, it would not in any manner adversely affect the progress of the trial in case one last effective opportunity is granted to the petitioner to file his written statement.

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

No doubt, the petitioner was granted several opportunities

to file his written statement, however, he failed to do so.

Be that as it may, 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. 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 respondents, to avoid any further delay as well as expenses which the respondents shall have to incur to defend these proceedings, the impugned order dated 21.12.2021, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to file his written statement.
2. In the event of default by the petitioner, the case shall not be adjourned any further for filing of his written statement 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 Rs.2,500/- to be paid to the respondents which shall be a condition precedent.

11.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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