

120

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1306-2022 (O&M)

Date of decision : 15.07.2022

Raj Kumari

...Petitioner

Vs.

Parjain Kumar and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

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

MANOJ BAJAJ, J.

Petitioner (defendant No.4) has filed this revision petition to challenge the order dated 05.01.2022 (Annexure P-5) passed by Civil Judge (Junior Division) Malerkotla, whereby her defence was struck off for not filing written statement within the stipulated period contemplated under Order VIII Rule 1 Code of Civil Procedure.

Learned counsel has argued that the petitioner had appeared for the first time on 25.03.2021 and sought time to file written statement, however, the same was not filed within the stipulated period, as there was breakout of pandemic COVID-19 and the courts were functioning with restrictions. He submits that the written statement was ready, but could not be filed on the day when the impugned order was passed, as she being unwell could not contact her advocate. Learned counsel has further drawn the attention of the Court to the administrative orders relating to the hearing of the cases of different categories as well as the order of Hon'ble Supreme Court, thereby injecting elasticity in the period of limitation to submit that the petitioner (defendant No.4) be granted only one opportunity to file her

written statement as the other defendants have already been proceeded against ex parte. He submits that suit is for recovery of Rs.2,67,500/-, and if, she is prevented from contesting it, it would cause serious prejudice to her.

After hearing learned counsel and considering the above background, this Court finds that no doubt various opportunities were given to defendant No.4 (petitioner) by the learned Civil Court to file her response to the plaint, but she failed to file her written statement. Since her written statement is ready and in case she is not allowed to file the same, it would amount to prohibiting her from contesting the suit and would cause prejudice.

In view of the limited relief prayed for by the petitioner, this Court is not inclined to issue notice to the respondents, as it may cause unnecessary burden upon them and the nature of order would not cause any prejudice to them. However, it is made clear that in case, the plaintiffs feel that the petitioner has not approached this Court with clean hands, it shall be open for them to seek recalling of this order.

In view of the above, the impugned order dated 05.01.2022 (Annexure P-5) is set aside and petitioner (defendant No.4) is directed to file written statement within next two weeks.

Disposed of.

(MANOJ BAJAJ)
JUDGE

15.07.2022

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