

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

124

CR-1788-2022

Date of decision: 25.07.2022

Ashar Devi @ Acharu Devi

.....Petitioner

Versus

Bhupinder Singh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Gautam Kaile, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been filed for setting aside of the order dated 25.04.2022 (Annexure P-6) vide which the defence of the petitioner/defendant was struck off.

In compliance of order dated 09.05.2022, learned counsel has filed an application for placing on record zimni orders today in Court, which is allowed and copies of zimni orders are taken on record subject to all just exceptions.

While inviting the attention of this Court to the zimni orders which have been placed on record today, learned counsel for the petitioner *inter alia* submits that the petitioner, who is an 80 year old lady, was unable to put in an appearance on 25.04.2022 i.e. the date on which she was supposed to file her written statement due to her advance age and ill-health, however, her counsel appeared and sought time to do the needful after lunch. By the time her counsel appeared in the Court after lunch, after depositing the costs which had been imposed in the sum of Rs.2,000/-, the impugned order had been passed by the Court below. Learned counsel submits that it was for genuine reasons and due to her advance age, the petitioner was unable to come

to the Court on that date and put her signatures on the written statement which had resulted in the delay in filing of written statement. He submits that compassionate view be taken and one last effective opportunity may be granted to the petitioner to file her written statement.

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

No doubt, the petitioner was granted several opportunities to file her written statement, however, she failed to do so.

Be that as it may, if the petitioner is not granted one more opportunity to file her written statement, she 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 her 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 25.04.2022, 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.2,000/- to be paid to respondent No.1 which shall be a condition precedent.

25.07.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

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