

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

125

CR-1902-2022

Date of decision: 13.05.2022

Swaran Singh

.....Petitioner

Versus

Rajinder Kumar Koul

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Umesh Aggarwal, Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

Challenge in the instant revision is to the orders dated 02.07.2019 (Annexure P-2) and 02.12.2019 (Annexure P-3) passed in Rent Petition No.200 of 2018 titled as '*Rajinder Kumar Koul vs Swaran Singh*' pending before the learned Rent Controller at Amritsar.

Learned counsel for the petitioner submits that the defence of the petitioner has been struck off by the trial Court vide its order dated 02.07.2019 (Annexure P-2) on account of his failure to file the written statement in a petition filed by the respondent before the learned Rent Controller at Amritsar, seeking ejectment of the petitioner from the demised premises. He further submits that petitioner moved an application before the trial Court for recalling the aforesaid order, but the same has also been dismissed vide order dated 02.12.2019 (Annexure P-3). Learned counsel further submits that the petitioner cannot be made to suffer for fault of his counsel. Learned counsel submits that the delay had occurred as he was not intimated in the said regard by his counsel about the various dates fixed. Hence, it was for genuine reasons, beyond his control that there had been a delay in filing of the written statement.

I have heard learned counsel for the petitioner and perused the

relevant material placed on record.

The fact remains that written statement was not filed by the petitioner-defendant despite being granted numerous opportunities. However, it was due to miscommunication between the petitioner and his counsel as he was not intimated about the dates of hearing.

Be that as it may, if the petitioner is not granted one more opportunity to file his written statement, he would suffer irreparable loss resulting in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one more effective opportunity to the petitioner to file his written statement.

In wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which he shall have to incur to defend these proceedings, the impugned orders dated 02.07.2019 and 02.12.2019 are 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 reply.
2. In the event of default by the petitioner, the matter shall not be adjourned any further for filing of his written reply 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.10,000/- to be paid to the respondent which shall be a condition precedent.

13.05.2022

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(MANJARI NEHRU KAUL)
JUDGE

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