

CR-1908-2022

Date of decision: 13.05.2022

Lokesh Gaba

.....Petitioner

Versus

M/s Shemrock Twinkles

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Mehak Sahwney, Advocate
for Dr. Deipa Singh, Advocate
for the petitioner

MANJARI NEHRU KAUL, J. (ORAL)

Challenge in the instant revision is to the order dated 29.11.2021 passed by learned Additional Civil Judge (Senior Division), Panipat, whereby the evidence of the petitioner (defendant) was closed by order of the Court in civil suit filed by the respondent-plaintiff for recovery of Rs. 5,50,000/-

Learned counsel for the petitioner submits that the petitioner appeared through his counsel before the Trial Court on 15.11.2021 and the case was adjourned for 29.11.2021 for filing of written statement. However, the Trial Court erroneously observed that the petitioner had availed sufficient opportunities for filing written statement and struck off the defence of the petitioner vide impugned order. Learned counsel further submits that written statement was duly prepared and signed by the petitioner but because of some correction, further signatures of the

petitioner were required and due to unavailability of the petitioner, written statement could not be filed in the Court on 29.11.2021. Learned counsel further submits that in the facts and circumstances the petitioner was not granted due opportunity to file his written statement, therefore one last opportunity be granted to him.

I have heard learned counsel for the petitioner and perused the relevant material placed on record.

In view of submissions made by learned counsel for the petitioner that the petitioner appeared on 15.11.2021 before the Trial Court through his counsel and his defence was struck off on the very next date of hearing, this Court deem it appropriate to grant one more effective opportunity to the petitioner for filing his written statement, for just and proper adjudication of the case.

In wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which it shall have to incur to defend these proceedings, the impugned order dated 29.11.2021 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 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
Paramjit

(MANJARI NEHRU KAUL)
JUDGE

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