

**124 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CM-8464-CII-2022 in/&
CR-2055-2022
Decided on : 29.07.2022

Tharminder Kumar

..... Petitioner

Versus

Bindu Rani

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Harminder Singh, Advocate
for the petitioner.

Manjari Nehru Kaul, J.(Oral)

CM-8464-CII-2022

Application is allowed as prayed for and Annexure P-8 is taken on record subject to all just exceptions.

Main case

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 07.09.2021 passed by learned Civil Judge (Jr. Divn.), Chandigarh (Annexure P-7) vide which the defence of the petitioner-defendant was struck off.

Learned counsel for the petitioner *inter alia* contends that the petitioner appeared before the trial Court on 18.09.2020 and thereafter the case was adjourned to 12.11.2020 for filing of written statement. The case was adjourned on multiple occasions however, the petitioner was unable to file his written statement due to non-availability of certain relevant documents, which were to be submitted alongwith the written statement.

The petitioner-defendant had moved an application dated 13.01.2020 (Annexure P-8) under the RTI Act to get those relevant documents, however, the department concerned vide letter dated 30.03.2020 intimated the petitioner that the said documents cannot be supplied. Therefore, due to non-availability of relevant documents, the petitioner was unable to put up his defence which led to delay in filing the written statement. Learned counsel further submits that the delay was neither intentional nor wilful coupled with the fact that the petitioner was not well versed with the Court proceedings. A prayer has, therefore, been made that a compassionate view be taken and the impugned order be set aside.

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

A perusal of the record reveals that the petitioner had indeed moved an application for getting the necessary documents and the same was declined by the department concerned. The petitioner too was not diligent enough. Be that as it may, the trial is still at the initial stage as the examination-in-chief of only one plaintiff witness has been done. This Court is thus, of the opinion that 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 respondent, to avoid any further delay as well as expenses which the respondent shall have to incur to defend these proceedings, the impugned

order dated 07.09.2021, 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.10,000/- to be paid to the respondent which shall be a condition precedent.

29.07.2022
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(MANJARI NEHRU KAUL)
JUDGE

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