

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

CR-3177-2019 (O&M)

Date of Decision: August 29, 2022

Gurmeet Kaur

...Petitioner

VERSUS

Baldev Singh

...Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present: Ms.Sumanpreet Aulakh, Advocate
for the petitioner.

Mr.Nand Lal Sammi, Advocate
for the respondent.

ARCHANA PURI, J.

Challenge in the present revision petition is to the order dated 18.12.2018 (Annexure P-5) passed by learned Civil Judge (Jr. Divn.), whereby, defence of the petitioner had been struck off.

It is submitted by learned counsel for the petitioner that during the pendency of Civil Suit No.255/2018 titled as 'Baldev Singh vs. Gurmeet Kaur', which was filed for possession by way of specific performance of agreement to sell dated 21.01.2014, the petitioner, who was defendant before the lower Court, had made appearance through counsel on 23.08.2018 and the case was adjourned for 27.09.2018, for filing of written statement. On 27.09.2018, written statement was not filed and the case was adjourned to 20.10.2018. On 20.10.2018, again written statement was not

filed and case was adjourned to 18.12.2018. On 18.12.2018, the impugned order was passed, whereby, defence of the petitioner-defendant was ordered to be struck off.

Notice of the present petition was given to the respondent, who made appearance through counsel. Learned counsel for the respondent submits that false agreement to sell has been executed by the petitioner-Gurmeet Kaur, relating to the sole property owned by her. Even, FIR qua the said forged agreement to sell has been registered against the petitioner. As such, it is submitted that it was only due to the fault, on the part of the petitioner, that the written statement was not filed.

However, learned counsel for the petitioner submits that it was on account of medical ailment of the counsel representing the petitioner-defendant before the lower Court that written statement was not filed and she submits that one opportunity be given for filing of written statement, as the written statement is ready. She has also drawn the attention of this Court to Annexure P-6, which is written statement, already drafted by the petitioner-defendant.

Perusal of the zimni orders, so passed by learned lower Court reveal that after making appearance through counsel on 23.08.2018, the case was only adjourned for two dates and on third date, the defence of the petitioner was struck off. Considering the aforesaid zimni orders, it cannot be said that there was any malafide intention to delay the proceedings, as now projected by learned counsel for the respondent. Even though, learned counsel for the respondent has made an attempt to refer to the merits of the case but however, this is not a stage, where genuineness of the agreement to

sell dated 21.01.2014, is to be considered.

However, considering the aforesaid fact situation, the present revision petition, as such, is accepted and the petitioner-defendant, is given one opportunity to file the written statement before the lower Court on the date fixed, which is stated to be 14.09.2022.

August 29, 2022
Vgulati

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
Yes/No