

116

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-2783-2022 (O&M)

Date of Decision:20.07.2022

Jaswinder Singh

.. Petitioner

Vs.

Mohinder Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Raman Chawla, Advocate for the petitioner.

...

Manoj Bajaj, J. (Oral)

Petitioner/defendant is aggrieved against the order dated 05.04.2022 (Annexure P-1) passed by Civil Judge (Jr. Divn.), Ambala, whereby in a suit for injunction brought by respondent (wife of the petitioner), his defence was struck off, as the written statement was not filed within the stipulated period.

Learned counsel has argued that the parties are having a matrimonial dispute and wife brought a suit for injunction against defendant/petitioner, restraining him from alienating the suit property and the notice in the suit was issued on 21.09.2021. Pursuant to that, he appeared on 24.09.2021 and made a statement that he would not alienate the suit property during the pendency of the suit. According to him, while disposing of the application under Order 39 Rule 1 and 2 read with Section 151 CPC, the case was adjourned for filing written statement, however, finally on 05.04.2022, the defence was struck off, as despite opportunities, he failed to file written statement. Learned counsel submits that the written statement is ready with the defendant and would be filed positively on

26.07.2022 i.e. the date fixed before the trial Court. He submits that in case, the petitioner is allowed to file his written statement, no prejudice would be caused to the other side, as the interest of the plaintiff is already protected.

Heard.

In view of the limited relief prayed for by the petitioner, this Court is not inclined to issue notice to the respondent, as it may cause unnecessary burden upon her and the nature of order would not cause any prejudice to her. However, it is made clear that in case, the plaintiff feels that the petitioner/defendant has not approached this Court with clean hands, it shall be open for her to seek recalling of this order.

The petitioner is the defendant, who claims to be owner of the suit property, and in case, he is prevented to contest the suit, a serious prejudice would be caused to him.

Resultantly, the impugned order dated 05.04.2022 (Annexure P-1) is set aside and petitioner/defendant is granted only one opportunity to file his written statement on the next date of hearing fixed before the trial Court i.e. 26.07.2022.

Disposed of.

20.07.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes	No
Yes	No