

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

CR No.3797 of 2022 (O&M)

Date of decision: 12.09.2022

Sarabjit Singh

..... Petitioner

versus

Jaswinder Pal Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Abhishek Khullar, Advocate with
Mr. Harinder Pal Singh, Advocate
for the petitioner.

TRIBHUVAN DAHIYA J. (ORAL)

CM No.11633-CII of 2022

For the reasons stated in the application, leave is granted.

Application stands disposed of.

CR No.3797 of 2022

This revision petition under Article 227 of the Constitution of India has been filed against the order dated 05.04.2022 (Annexure P-2) whereby defence of petitioner-defendant No.1 has been struck off by the trial Court by recording that despite numerous opportunities, he failed to file the written statement.

2. The facts of the case are, a suit for mandatory injunction was filed by the respondent-plaintiff directing the petitioner-defendant No.1 to demolish 1 feet (height) X 8 feet (long) wall illegally constructed by them to block parking of the plaintiff/family members at their residence.

3. Learned counsel for the petitioner has pointed out that the plaintiff and defendant No.1 are real brothers, and they have been residing in their respective portions of the house in question. Further, it has been wrongly recorded by the trial Court in the impugned order that the case had been fixed for filing of written statement by petitioner-defendant No.1 since 02.07.2021, as the defendant for the first time appeared in the Court on 23.08.2021 only. This fact is apparent from the order dated 23.08.2021, i.e., Annexure P-3 attached to the petition. It is also submitted that no prejudice would be caused to the plaintiff in case one opportunity is afforded to the petitioner-defendant No.1 for filing written statement. Even other defendants have not filed their written statement so far.

4. In view of the aforesaid facts, the petition is allowed and the order dated 05.04.2022 (Annexure P-2) is set aside to the extent defence of petitioner-defendant No.1 has been struck off. The petitioner is afforded one last opportunity to file written statement by the next date of hearing, i.e., 13.09.2022 subject to payment of costs of Rs.10,000/- to the respondents/defendants.

5. The petition stands disposed of in the above terms.

(TRIBHUVAN DAHIYA)
JUDGE

12.09.2022

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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No