

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

CR-4029-2022 (O&M)

Date of Decision: 21.09.2022

Airport Authority of India

..... Petitioner

Versus

Dhoop Singh and others

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.Vivek Singla, Advocate for the petitioner.

HARKESH MANUJA, J. (ORAL)

Present revision petition has been directed against the order dated 16.07.2022 passed by the Court of learned Civil Judge (Junior Division), Bathinda; whereby the defence of the petitioner/defendant has been struck off due to non-filing of written statement.

The facts leading to the present revision petition are that respondents No.1 to 4 filed a suit for permanent injunction against the petitioner as well as Union of India. The said suit was filed on 12.01.2021. The petitioner as well as Union of India i.e. defendants appeared before the learned trial Court on 20.04.2021 and sought time for filing of written statement.

A perusal of the zimni orders attached along with the present revision petition from pages 30 to 40 show that after 20.04.2021, the case was adjourned time and again for the purpose of filing of written statement for almost 11 times and finally vide

impugned order dated 16.07.2022, the defence of the petitioner was struck off.

From the zimni orders attached along with the revision petition, it is apparent that the suit was not being pursued on behalf of petitioner diligently. In case the petitioner would have contested the suit merely with a reasonable diligence, written statement could have been filed on its behalf in pursuance to the time granted by the learned trial Court.

Though, I do not find any infirmity in the order passed by the learned trial Court; whereby the defence of the petitioner has been ordered to be struck off; never the less considering the fact that the rights of a public authority are involved and now written statement on its behalf has already been prepared and attached along with the present civil revision, therefore, in exercise of my revisional jurisdiction, one last opportunity is granted to the petitioner to file its written statement before the learned trial Court. The indulgence is being granted in favour of the petitioner, considering the fact that in the absence of filing of written statement, it will not be in a position to contest the suit effectively and the same would cause serious prejudice to its rights. More than that, it is settled proposition of law that the Court should make every endeavour to decide the case on merits, rather than adopting a hypertechnical approach unless the parties are grossly negligent in pursuing their rights.

In view of the above, revision petition is allowed. Impugned order dated 16.07.2022 is hereby set aside, granting one opportunity to the petitioner so as to file its written statement before the learned trial Court only on the date fixed i.e. 30.09.2022. In order to balance the equities and compensate the respondents for the delay caused in the proceedings before the learned trial Court, this order shall be subject to payment of costs of Rs.25000/- to be paid to them on the next date fixed before learned trial Court.

Keeping in view the nature of proceedings, the present petition is being decided without issuing notice to the plaintiffs, least it may delay the proceedings in the suit initiated at their instance.

However, in case, the respondents find any misstatement on the part of the petitioner, they would be at liberty to approach this Court by moving an appropriate application.

Pending application(s), if any, shall also stand disposed of.

September 21, 2022
sanjay

(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No