

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

CR No.4058 of 2022

Date of decision: 22nd September, 2022

Rajwinder Singh @ Rajbinder Singh

... Petitioner

Versus

Chhinderpal Kaur & another

... Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Dhirinder Chopra, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 09.08.2022 (Annexure P2) passed by learned Addl. Civil Judge (Sr. Divn.), Baghapurana vide which the defence of the petitioner/defendant was struck off.

Learned counsel for the petitioner *inter alia* contends that initially the petitioner was proceeded against ex-parte by the trial Court vide order dated 10.02.2022, however subsequently on 31.03.2022 the petitioner was allowed to join the proceedings and thereafter the case was adjourned to 12.05.2022 for filing of his written statement. The case was adjourned on 12.05.2022 and 04.07.2022 however, the petitioner was unable to file his written statement on account of some miscommunication between the petitioner and his counsel and as such, he was not aware about the various dates of hearing. Learned counsel

submits that the petitioner came to know about the interim order only after his counsel before the trial Court called him for filing a revision petition. It was prayed that since the petitioner was not well versed with the nitty gritty of the Court proceedings, a lenient view be taken, coupled with the fact that the Hon'ble Apex Court had also been taking a lenient view and extending the period of limitation in such cases. It was submitted that it was on account of genuine reasons that the petitioner was unable to file his written statement.

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

A perusal of the record reveals that the petitioner has indeed been negligent in pursuing the case. However, at the same time this Court is 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 coupled with the fact that the proceedings are still at a nascent stage, 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/plaintiff, to avoid any further delay as well as expenses which the respondent/plaintiff shall have to incur to defend these proceedings, the impugned order dated 09.08.2022, 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 ₹ 10,000/- to be paid to the respondent/plaintiff which shall be a condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

September 22, 2022

rps

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