

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

CR-4316-2022

Date of decision : 10.10.2022

Varinder Mohan

...Petitioner

Vs.

Ankit Guglani

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. R.K.Girdhar, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner (defendant) is aggrieved against the order dated 28.07.2022 passed by Civil Judge (Junior Division), Fazilka, whereby in a suit bearing No.CS-188-2019 for recovery of Rs.3,77,500/- filed by respondent (plaintiff), his defence was struck off, as the written statement was not filed in stipulated period contemplated under Order VIII Rule 1 Code of Civil Procedure.

Learned counsel has argued that though the petitioner had appeared before the trial Court on 08.11.2021 and sought time to file written statement, but the same was not filed despite three opportunities and the Court proceeded to strike off the defence of petitioner vide order dated 28.07.2022. He further submits that the needful was not done within specified time as the order was not conveyed to the petitioner by his counsel. Learned counsel further submits that in March, 2020, pandemic COVID-19 broke out, and the petitioner was under impression that he would receive fresh notice to the civil suit. According to him, there was chances of compromise as well and petitioner believed that respondent/plaintiff would not pursue his case. He prays that the impugned order be set aside.

Learned counsel further submits that the written statement is ready with the defendant and would be filed positively on or before 17.10.2022 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. Learned counsel prays for last opportunity to file written statement.

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 him and the nature of order would not cause any prejudice to him. 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 him to seek recalling of this order.

Resultantly, the impugned order dated 28.07.2022 is set aside and petitioner/defendant is granted only one opportunity to file his written statement on or before the next date of hearing fixed before the trial Court i.e. 17.10.2022.

Disposed of.

(MANOJ BAJAJ)
JUDGE

10.10.2022
vanita

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