

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 120

Civil Revision No.4376 of 2022
Date of Decision: October 12, 2022

Satish Kumar Chadha

..... PETITIONER(S)

VERSUS

Harnoor Singh & others

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. Shubham Goyal, Advocate, for the petitioner.

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Tribhuvan Dahiya, J (Oral)

This revision petition has been filed under Article 227 of the Constitution of India, for setting aside order dated 02.09.2022 (Annexure P-3), vide which, petitioner's defence was struck off by the Trial Court, on failure to file written statement.

Learned counsel for the petitioner-defendant No.2 has submitted that the documents which were filed by the plaintiff alongwith plaint, were furnished to him only on 18.07.2022 pursuant to an order passed by the Trial Court to that effect. Thereafter, mother of counsel for the petitioner-defendant No.2 expired on 10.08.2022, that was the reason on the date fixed, i.e., 26.08.2022, written statement could not be filed and the case was adjourned to 02.09.2022. On that date, the Trial Court struck off defence of the petitioner by referring to a statement said to have been made

by defendant No.2 to the effect that on non-filing of written statement, his defence may be struck off.

A perusal of the statement of defendant No.2, which has been placed on record as Annexure P-2, shows that it has been made only on 02.09.2022 when the impugned order, striking off the defence, was passed. Therefore, there was no occasion for the Trial Court to pass the impugned order based on the statement made on that date itself.

In view of the aforesaid, this petition is allowed. Order dated 02.09.2022 is set aside and the petitioner-defendant No.2 is afforded one last opportunity to file written statement, within a week from today, subject to payment of ₹ 5,000/- as costs to the respondent(s). It is made clear that no further opportunity shall be granted for the purpose.

(Tribhuvan Dahiya)
Judge

October 12, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No