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

**CR-3380-2021 (O&M)
Date of decision: 15.07.2022**

Sundar Lal

... Petitioner

Vs.

Rohtash

.. Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rahul Jaswal, Advocate
for the petitioner.

Mr. Mohit Aneja, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for setting aside the order dated 11.11.2021 passed by the Additional Civil Judge (Sr. Divn.), Samalkha, vide which the prayer for granting one more opportunity to file the written statement, was declined and the defence was struck off.

Brief facts of the case are that the respondent-plaintiff filed a suit for possession against the petitioner-defendant on 09.01.2020. The petitioner-defendant availed number of opportunities for filing the written statement and when the same was not filed, the Civil Court, vide impugned order dated 11.11.2021, declined the prayer of the petitioner and struck off his defence. The operative part of the impugned order reads as under: -

“Today the case is fixed for filing written statement subject to last opportunity as well as for payment of cost of Rs. 100 in SDLSA, Samalkha. Cost paid. Receipt placed on file. Written statement on behalf of the defendant not filed. Perusal of the file also shows that several opportunities have been granted to the defendant for filing the written statement including last opportunities but he failed to file the same. Further more as per the mandatory provisions of CPC, 90 days time has already been expired. Hence, further adjournment is not justified and defence of the defendant is hereby struck off.

From the pleadings, the following issues are hereby settled for trial:-

- 1. Whether the plaintiff is entitled for possession and permanent injunction as prayed for? OPP.*
- 2. Relief.*

No other issue is pressed or raised by either of the parties. Remaining plea, if any, deemed to be waived. Both the parties are directed to file list of witnesses within fifteen days positively. Now, case stands adjourned to 01.12.2021 for evidence of plaintiff.”

Learned counsel for the petitioner submits that the petitioner raised a good ground that due to lockdown, the cases were adjourned and he was not in a position to file the written statement.

Learned counsel for the respondent could not dispute the factual position.

In view of the above, this petition is allowed and the impugned order dated 11.11.2021 is set aside. The petitioner is granted one more opportunity to file the written statement within a period of 30 days from today, however, this will be subject to payment of Rs.3,000/- to the plaintiff-respondent.

[ARVIND SINGH SANGWAN]
JUDGE

15.07.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No