

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

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**CR-4553-2022 (O&M)
Date of decision: 18.10.2022**

Sucha Singh

...Petitioner

Versus

Nirmal Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rahul Arora, Advocate
for the petitioner.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for setting aside the order dated 31.08.2022, passed by the trial Court, vide which the defence of the petitioner/defendant No. 4 was struck off.

Learned counsel for the petitioner/defendant No. 4 submits that the respondent/plaintiff Nirmal Singh has filed a suit for mandatory injunction directing the defendants (six in number) to execute and register the sale deed with regard to plot in dispute.

Learned counsel for the petitioner further submits that out of six defendants, the suit has either been dismissed qua some of them or some of the defendants have been proceeded *ex-parte* and as on today, no written statement has been filed.

Learned counsel for the petitioner further submits that the petitioner, who is defendant No. 4, is contesting the suit, however, he could not file the written statement within the time as his brother-in-law was

murdered. It is further submitted that the petitioner has already drafted the written statement, copy of which is attached as Annexure P-5 with this petition, in which a number of objections with regard to maintainability have been raised and it has also been stated that it is the plaintiff himself who is the defaulter.

It is further submitted that if the petitioner is granted one opportunity, he will file the written statement and the plaintiff can be compensated with the cost.

After hearing learned counsel for the petitioner, this Court feels that issuance of notice of motion to the respondents will further delay the disposal of the suit, therefore, issuance of notice of motion is dispensed with and in view of the facts and circumstances stated by learned counsel for the petitioner, the present petition is allowed. The impugned order dated 31.08.2022 is set aside.

The petitioner is granted 30 days' time to file the written statement, however, this will be subject to a condition that the petitioner will pay a cost of Rs. 5,000/- to respondent No. 1/plaintiff.

Liberty is granted to respondents to revive this petition, if so advised.

18.10.2022

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No