

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

110

CR-5056-2022

Date of decision: 11.11.2022

Swaran Singh

.....Petitioner

Versus

Devender Kumar Sharma and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Ms. Ishita Jain, 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 01.08.2022 (Annexure P-3) passed by learned Civil Judge (Jr. Divn.), Yamuna Nagar at Jagadhri in Civil Suit No.CS-1788-2021 titled as 'Devender Kumar Vs. Swaran Singh etc.' vide which the defence of the petitioner/defendant was struck off.

Learned counsel for the petitioner *inter alia* contends that the petitioner appeared before the Trial Court on 22.10.2021 and thereafter the case was adjourned to 18.02.2022. On the next date, counsel for the petitioner sought time to file written statement which was allowed and the case was adjourned to 23.05.2022. Thereafter, case was adjourned to different dates, however, written statement could not be filed as the petitioner remained under medical treatment and was advised to undergo treatment including certain tests. Copy of medical report of the petitioner is annexed as Annexure P-4. Ultimately, the defence of the petitioner was struck off vide order dated 01.08.2022.

Learned counsel submits that a lenient and compassionate view be

taken and one last effective opportunity may be granted to the petitioner to file his written statement.

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

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, 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 respondents, to avoid any further delay as well as expenses which the respondents shall have to incur to defend these proceedings, the impugned order dated 01.08.2022, 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 Rs.15,000/- to be paid to respondent No.1/plaintiff which shall be a condition precedent.

11.11.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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