

CR-5423-2022

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

CR-5423-2022

Date of Decision: November 23, 2022

Davinder Kaur

...Petitioner

Versus

Labh Singh

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Rakesh Sobti, Advocate for the petitioner.

DEEPAK GUPTA, J.(Oral)

Petitioner is aggrieved by the order dated 07.09.2022 (Annexure P-4) whereby Civil Judge (Jr. Divn.), Amritsar, has struck off the defence of the defendant-petitioner on his failure to file written statement.

2. A perusal of the paper book reveals that appearance on behalf of the defendant-petitioner was made before the Trial Court on 03.03.2021. Matter was adjourned on several dates, mostly in the presence of counsel for the defendant-petitioner but the written statement was not filed. On 27.07.2022, matter was adjourned to 07.09.2022 for filing written statement subject to cost of ₹500/- to be deposited in DLSA. Despite this opportunity, defendant-petitioner failed to file written statement which compelled the Trial Court to strike off his defence by way of impugned order.

3. It is submitted by learned counsel that as COVID-19 pandemic was at its peak in the intervening period, there were restrictions on the movements of the defendant-petitioner. Besides,

CR-5423-2022

matter was also once referred to mediation for amicable settlement between the parties. Later on, defendant-petitioner had fallen ill. Learned counsel pleads for only one opportunity be granted to the petitioner-defendant to file written statement.

4. Though, the impugned order cannot be faulted having regard to the conduct of the defendant-petitioner, but in the interest of justice, one opportunity is provided to the defendant-petitioner to file written statement, subject to ₹10,000/- as costs payable by the defendant-petitioner by way of demand draft in favour of the respondent-plaintiff. The Trial Court is directed to fix one date for filing of the written statement by the defendant-petitioner. On failure of the defendant-petitioner to pay costs or to file written statement on date to be fixed by the Trial Court, the impugned order shall operate as it is.

5. This order has been passed without serving notice to the respondent-plaintiff in order to avoid any delay in the matter. However, if the respondent-plaintiff is aggrieved by this order, he can approach this Court.

6. The revision is disposed of accordingly.

November 23, 2022

sarita

(DEEPAK GUPTA)

JUDGE

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