

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

CR-6054-2022

Date of Decision: December 20, 2022

Jangir Singh

..... Petitioner

Versus

State Bank of India

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present:- Mr.R.K. Kachura, Advocate for the petitioner.

HARKESH MANUJA, J. (ORAL)

By way of present revision petition, challenge has been made to order dated 05.04.2022 passed by Additional Civil Judge (Senior Division), Guruharsahai, whereby the defence of the petitioner was ordered to be struck off thereby denying him his right of filing written statement.

Brief facts of the case are that a suit for recovery, based on mortgage, was filed at the instance of respondent/ plaintiff (hereinafter referred to as 'the respondent') against the petitioner/ defendant (hereinafter referred to as 'the petitioner') on 23.07.2021. In pursuance to the notice issued by the trial Court, petitioner appeared in the suit on 01.02.2022. Thereafter, on three short opportunities, the petitioner could not file his written statement and accordingly his defence was ordered to be struck off by the trial Court

vide order dated 05.04.2022. It is the said order which has been impugned by way of the present revision petition.

Relying upon the zimni orders passed by the trial Court, which have been produced on record with the revision petition at page 21 to 23, learned counsel submits that the petitioner was denied sufficient opportunity to file his written statement. He further submits that in the month of February 2022, Covid-19 situation was at its peak. He also submits that during this period i.e. since the passing of the impugned order, the respondent has examined only one witness and now the proceedings before the trial Court are fixed for recording of the evidence of the petitioner.

I have heard learned counsel for the petitioner and gone through the paper-book.

A perusal of zimni orders shows that the petitioner appeared before the trial Court on 01.02.2022; whereas his defence was ordered to be struck off on 05.04.2022, while during the period on February 2022, as rightly pointed out by learned counsel for the petitioner, Covid-19 pandemic situation was at its peak, which definitely played its part in non-filing of written statement by the petitioner.

From the perusal of zimni orders attached along with the revision petition, one can find out that the petitioner was not afforded sufficient and reasonable opportunity to file his written statement, thereby denying him his right to contest the suit filed against him and

that too for recovery, based on mortgage, effecting his substantial rights.

Considering the fact that even the respondent could examine only one witness in the meanwhile and the proceedings are still pending before the trial Court for recording of evidence of the petitioner, I deem it appropriate to allow the revision petition.

In view of the discussion made hereinabove, the revision petition is allowed. Impugned order dated 05.04.2022 is hereby set aside. Petitioner is granted one effective opportunity to file his written statement so as to enable him to defend his rights in the suit in proper and effective manner.

Keeping in view the nature of proceedings, the present petition is being decided without issuing notice to the respondent, least it may delay the proceedings in the suit filed at its instance.

However, in case, the respondent finds any misstatement on the part of the petitioner, he would be at liberty to approach this Court by moving an appropriate application.

December 20, 2022
sanjay

(HARKESH MANUJA)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>