

112 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-679-2023

Date of Decision: 02.02.2023

The Commissioner, Municipal Corporation, Amritsar Petitioner

Versus

Inderdev Sharma and another Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Karanjit Singh, Advocate,
for the petitioner.

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RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India for setting aside the order dated 16.05.2022 passed by the Civil Judge (Junior Division), Amritsar, vide which defence of present petitioner/defendant No.2 has been struck-off for non-filing of written statement.

It is submitted by the learned counsel for the petitioner that the order passed by the Court below is illegal. The petitioner has wrongly been denied of the opportunity to file the written statement and to contest the suit filed by the plaintiff. It is further submitted that since the petitioner is a government establishment, therefore, it is contesting the plaint to prevent encroachment upon the public property. Therefore, if the petitioner is not granted opportunity to file the written statement, then the case of the petitioner shall be seriously prejudiced beyond redemption. Hence, the petitioner deserves to be granted, at least, one opportunity to file written

statement and to accordingly contest the suit.

Having heard the learned counsel for the petitioner and perused the case file, this Court finds that the Trial Court has granted sufficient opportunities to the present petitioner to file written statement. The petitioner itself had been wavering and has been indecisive on the aspect as to whether it desired to file written statement or not. Therefore, despite granting sufficient opportunities, the petitioner did not file any written statement within the statutory time. Hence, this Court does not find any *ex facie* illegality or impropriety in the order passed by the Court below.

However, the law of procedure is handmade to advance the interest of the substantial justice. In the present case, the petitioner is a public authority, who is contesting a suit relating to the public property. Therefore, if the petitioner is deprived of the opportunity to file the written statement, then the plaintiff is likely to get undue advantage and the case of the present petitioner/defendant in the suit, is likely to suffer serious prejudice. Therefore, it would not be inappropriate to grant one effective opportunity to the petitioner to file written statement, however, by putting it under an appropriate financial burden.

In view of the above, the present petition is allowed and the impugned order passed by the Trial Court is set aside. The Trial Court is directed to grant one effective opportunity to the petitioner to file written statement and to contest the suit accordingly, however, subject to payment of Rs.15,000/- as costs; to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh, within a period of 15 days from today. It is

further ordered that the Trial Court shall not grant the aforesaid opportunity unless the receipt of having deposited the costs, as ordered above, is produced before it.

The aforesaid costs is ordered to be recovered from the personal pocket of the person(s), not below the rank of Estate Officer, who is/are responsible for not filing the written statement.

(RAJBIR SEHRAWAT)
JUDGE

02.02.2023
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Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No