

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

120

CR No.1727 of 2023

Date of decision: 20.03.2023

Tejdeep Singh Ahluwalia

...Petitioner

V/s

Harshdeep Kaur and others

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present: Mr. Tejwinder Singh Hundal, Advocate for the petitioner.

VIKAS SURI, J. (Oral)

The challenge raised in this petition under Article 227 of the Constitution of India is to the order dated 17.01.2023 (Annexure P-8), whereby defence of the defendant-petitioner was struck-off for not having filed the written statement despite having availed several effective opportunities, including last opportunity for the said purpose.

Learned counsel would submit that the litigating parties are siblings and the dispute pertains to the estate of their father Baldev Singh Ahluwalia (deceased). In all, there are three civil suits pending between the parties. Two suits have been instituted by respondent No.2 viz. Charandeep Singh Ahluwalia against the petitioner and respondent No.1 and the third is instituted by respondent No.1. It is submitted that petitioner prays for one more opportunity to file the written statement. The delay that occurred was on account of that the petitioner wanted to first peruse the written statement filed in the connected matter by his sister i.e. plaintiff in the present case,

which was filed only after availing many opportunities on 16.01.2023 and on imposition of costs of Rs.1,000/-. Learned counsel submits that the next date fixed before the trial Court is 27.03.2023 and in case petitioner is permitted to file the written statement, he will file the same on the said date and not seek any further adjournment for the said purpose.

In view the order proposed to be passed, notice is not being issued as the same would not only delay the proceedings but also be an avoidable financial burden on the respondents.

A perusal of the paper-book shows that respondent No.1 filed a suit for declaration that the purported Will dated 29.06.2012, executed by father of the petitioner and respondent Nos.1 and 2 herein, in favour of petitioner is null and void; being got executed fraudulently and under duress and further for declaration that plaintiff-respondent No.1 is the rightful owner to the extent of 1/3rd share of the suit property besides other relief in alternate. The other prayer was for permanent injunction and partition by metes and bounds besides some others.

It is evident from the record that the parties are related by blood and there is other litigation also pending between them. The said litigation is pertaining to the same suit property. In light of the same, another opportunity should have been granted to the petitioner to file the written statement subject to payments of costs, as was allowed to the plaintiff-respondent No.1 herein, in the other litigation between the same parties.

Keeping in view the above discussion and totality of the facts and circumstances, I am of the considered view that to do substantial justice between the parties, the petitioner be permitted to contest the suit by filing

written statement and ought to have been granted an opportunity for the same, subject to payment of costs.

Accordingly, the present petition is allowed. The impugned order dated 17.01.2023 (Annexure P-8) is set-aside and the petitioner is granted one more opportunity to file the written statement, subject to payment of costs of Rs.10,000/-.

It is, however, made clear that the written statement be filed on the next date fixed before the trial Court i.e. 27.03.2023 and no adjournment will be given for the said purpose.

The revision petition is disposed of in the aforesaid terms.

(VIKAS SURI)
JUDGE

March 20, 2023
Ajay

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