

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

(115)

CR-2328-2023

Date of Decision : April 20, 2023

Surjit Singh**.. Petitioner****Versus****Bhajan Singh and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Rahul Garg, Advocate, for
Mr. Naveen Batra, Advocate, for the petitioner.

HARSIMRAN SINGH SETHI J. (ORAL)

Present civil revision petition has been filed for setting aside the order dated 20.02.2023 (Annexure P-3) by which, the defence of the petitioner-defendant has been struck off.

Learned counsel for the petitioner submits that though 90 days period has already elapsed but the said restriction of filing written statement within 90 days is not applicable in the facts and circumstances of the present case and the Court could have granted one more opportunity to file the written statement, hence, one more opportunity be granted to file the written statement even if the same is to be done by imposing cost so as to compensate the respondent-plaintiff for the delay occurred.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

As per the settled principle of law, efforts should be made to decide the lis between the parties on merits as far as possible. In the present case, the defence of the petitioner has been struck off on the ground that the period of 90 days has already elapsed but the said period of 90 days for filing the written statement is not mandatory but is directory only, hence, keeping in view the facts and circumstances of the present case, one more opportunity is granted to the petitioner-defendant to file written statement on the next date of hearing i.e. 24.07.2023 subject to the payment of Rs.5,000/- as cost to be paid to the respondent-plaintiff so as to compensate for the delay which has occurred due to the act on the part of the petitioner-defendant.

It is made clear that in case opportunity being granted to file written statement is not availed by the petitioner, no further opportunity will be granted. In case, the written statement is filed either on the next date of hearing or before the said date, the trial Court is directed to accept the said written statement and thereafter proceed in accordance with law.

The present civil revision petition is allowed in above terms.

April 20, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No