

CR-2572-2022

252

IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CR-2572-2022

Date of Decision: 24.03.2023

Devender

...Petitioner

Versus

Ankur

...Respondent

**CORAM:- HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Mayank Aggarwal, Advocate  
for the petitioner.

Mr. Baljeet Beniwal, Advocate  
for the respondent.

**HARSIMRAN SINGH SETHI, J. (Oral)**

In the present civil revision, challenge is to the order dated 09.07.2018 (Annexure P-6), by which the defence of the petitioner-defendant was struck off as well as to the order dated 25.05.2022 (Annexure P-10) by which, the application filed for recalling of the said order, was also dismissed.

Learned counsel for the petitioner submits that the petitioner appeared before the trial Court being the the defendant on 16.11.2017. Learned counsel submits that though the time was granted by the Court below for filing the written statement but on one account or the other the the same could not be filed. Hence, by order dated 09.07.2018, the defence of the petitioner-defendant was struck off and even the

**CR-2572-2022**

application filed for recalling of the said order had also been dismissed on 25.05.2022. Learned counsel submits that as a lis between the parties is pending consideration, it could be decided on merits and only one last opportunity is prayed for filing of the written statement even if the same is allowed by imposing cost.

Learned counsel for the respondents submits that once ample opportunities were given to the petitioner-defendant to file the written statement and no written statement was filed, no further opportunity be granted as the respondent-plaintiff are suffering prejudice because of the delay which is occurring due to the act on the part of the petitioner-defendant.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Though, it cannot be said that sufficient opportunities were not granted to the petitioner-defendant to file the written statement but as the same were not availed, there was no option with the Court below but to pass the impugned order. Having said so, it is also to be seen that the lis between the parties are decided as far as possible on merits. The prejudice which has been suffered by the respondent-plaintiff qua the delay in conclusion of the proceedings, can be taken care of by imposing cost upon the petitioner-defendant so as to compensate the respondent-plaintiff.

Keeping in view the above, the order dated 09.07.2018 and order dated 25.05.2022, are set aside. One more opportunity is given to the petitioner-defendant to file the written statement.

CR-2572-2022

This Court is informed that the next date of hearing is 22.05.2023 before the trial Court. In case the written statement is filed by the said date, the trial Court is directed to accept the said written statement but the same will only be accepted with Rs.10,000/- as costs, which will be paid to the respondent-plaintiff so as to compensate him for the prejudice which he has suffered due to the delay in the conclusion of the proceedings.

It is made clear that in case no written statement is filed by the next date of hearing i.e. 25.05.2023, no further opportunity will be granted and the present civil revision will be treated as dismissed and the orders impugned will be treated as valid orders.

24.03.2023

*ps-I*

(HARSIMRAN SINGH SETHI)  
JUDGE

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