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

CR-4911-2023

Date of Decision:- 10.10.2023

SARABJIT SINGH

...Petitioner

Vs.

HARWINDER SINGH

...Respondent

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Rahul Bhargava, Advocate for the petitioner.

AMARJOT BHATTI, J. (Oral)

1. The petitioner/defendant has filed the instant civil revision petition under Article 227 of the Constitution of India for setting aside impugned order dated 21.12.2022, Annexure P-1 whereby the defence of the petitioner has been struck off in Civil Suit No.537 of 2020 titled as Harwinder Singh Vs. Sarabjit Singh.

2. Learned counsel for the petitioner has placed on record the copy of plaint, Annexure P-2. There is downloaded copy of zimni order dated 24.08.2022 according to which the present petitioner/defendant appeared before the trial Court through his counsel for the first time and it was adjourned for filing of written statement for 20.09.2022. Thereafter the case was also referred to National Lok Adalat for compromise but the matter could not be compromised and on the next date by passing impugned order dated 21.11.2022 the defence of the present petitioner has

been struck off. At present examination-in-chief of three witnesses has been recorded and they are yet to be cross-examined. It is prayed that by taking lenient view the present petitioner may be given one opportunity to file written statement on the next date of hearing i.e. 18.10.2023.

3. I have considered the arguments and have gone through the record carefully. As per the documents on record after the appearance of learned counsel for the petitioner/defendant he was provided three effective opportunities to file the written statement. It is rightly pointed out that on one occasion the matter was also referred to National Lok Adalat for compromise and thereafter the defence was struck off by passing the impugned order dated 21.12.2022. It is in the interest of justice that the present petitioner is given fair opportunity to defend his case. Harwinder Singh plaintiff has filed suit for possession by way of specific performance of agreement to sell dated 17.05.2019. Material rights of both the parties are involved. The matter can be adjudicated on merits after considering the stand taken by both the parties. No notice is served upon the respondent to avoid unnecessary delay and litigation expenditure to the respondent. He can be fairly compensated by imposing costs. Under these circumstances, the impugned order dated 21.12.2022 is accordingly set aside by giving one opportunity to the present petitioner to file his written statement on the next date of hearing i.e. 18.10.2023 subject to payment of costs Rs.10,000/- to be paid by the present petitioner to respondent/plaintiff Harwinder Singh. In case for any reason the case is not taken up on 18.10.2023 then the petitioner can file written statement on the next date fixed by the trial Court.

4. The civil revision is accordingly disposed of.

10.10.2023

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(AMARJOT BHATTI)
JUDGE

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