

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

131

CR-5113-2023

Date of decision: 13.09.2023

Davinder Pal Mittal

....Petitioner

Versus

Ved Parkash Bansal

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Aayush Gupta, Advocate for the petitioner.

AMARJOT BHATTI, J.

1. The petitioner-Davinder Pal Mittal has filed the present civil revision against impugned order dated 31.05.2023 passed by learned Civil Judge (Junior Division), Ludhiana in Civil Suit No.CS/9228 of 2022 titled as ***“Ved Parkash Bansal Vs. Davinder Pal Mittal etc.”*** in which the defence of the petitioner/defendant has been struck off.

2. The learned counsel for the petitioner argued that respondent/plaintiff has filed suit for possession by way of specific performance of agreement to sell dated 25.05.2017 which is pending before the learned trial Court. Copy of plaint is Annexure P-1. The notice was served upon the present petitioner/defendant and he was also restrained from alienating the property. The present petitioner had appeared through his counsel Sh. Ashok Bhandari, Advocate. The case was adjourned from time to time for filing of written statement. The copies of zimni orders are placed on record as Annexure P-2. Ultimately, when the written statement was not filed on 31.05.2023, his defence was

struck off. In case the petitioner is not allowed to file his written statement, he will suffer irreparable loss. The written statement could not be filed on account of lapse on the part of his counsel as there was no intention of the present petitioner for not filing his written statement in the suit. He has requested for one effective opportunity to file his written statement with the prayer that the impugned order dated 31.05.2023 may kindly be set aside.

3. I have considered the arguments and have gone through the record carefully. In this case, the present petitioner/defendant did not file written statement despite availing several opportunities as a result of which his defence was struck off by passing impugned order dated 31.05.2023. A perusal of this order shows that the present petitioner was granted sufficient effective opportunities to file the written statement and even the cost was imposed twice. Despite given so many opportunities to file the written statement, the present petitioner failed to file his written statement as a result of which his defence was struck off. Therefore, it cannot be said that the impugned order dated 31.05.2023 was passed by the learned Civil Judge (Junior Division) in a hasty manner. I have considered the stand taken by the present petitioner. As per the copy of plaint Annexure P-1 Ved Parkash Bansal has filed suit for possession by way of specific performance of agreement to sell dated 25.05.2017 regarding 3 Kanal 9-1/3 Marlas of land situated in Village Talwandi Kalan, Tehsil and District Ludhiana. Therefore, the material rights of the present petitioner/defendant are involved in this case. It is in the interest of justice that the case is decided on merits after giving opportunity to both the parties to present their case. Considering the nature of litigation,

lenient view is taken and the impugned order dated 31.05.2023 passed by learned Civil Judge (Junior Division), Ludhiana is accordingly set aside. The present petitioner is granted one effective opportunity to file the written statement on the next date fixed before the learned trial Court. The notice is not served upon the respondent to avoid unnecessary delay and litigation expenditure on the respondent/plaintiff. However, the present petitioner/defendant is directed to file written statement on the next date of hearing subject to payment of cost of Rs.15,000/- in favour of the respondent/plaintiff and with further direction to deposit the cost as imposed by the learned Civil Judge (Junior Division), Ludhiana vide order dated 22.05.2023.

Accordingly, the present civil revision stands disposed of.

13.9.2023
Sunil Devi

(AMARJOT BHATTI)
JUDGE

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