

CR-5230-2023

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

Sr. No.138

CR-5230-2023

Date of Decision: 11.09.2023

MOHINDER SINGH

....Petitioner

Versus

SURJIT SINGH AND ANR

.....Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

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

ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 07.12.2022 (Annexure P-1), passed by the Court below, whereby the defence of the petitioner/defendant, has been struck off.

Learned counsel for the petitioner heard.

It is submitted by learned counsel for the petitioner that written statement was not filed at the earlier instance, as there were chances of arrival of compromise between the parties and only thereupon the delay, as such, has occurred in filing of the written statement. He submits that he shall file the written statement, if so allowed, on the next date of hearing before the court below. However, the case, as such, has not made much progress after the passing of the impugned order dated 07.12.2022.

Copies of zimini orders passed by the Court below, prior to the passing of the impugned order have been placed on record.

Perusal of the zimini orders reveals that the petitioner/defendant had made appearance through counsel on 06.08.2022 and the case was

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thereafter while making mention of chances to be there of effecting compromise between the parties, the case was adjourned to be taken in National Lok Adalat to be held on 29.08.2022, to explore the possibility of effecting compromise between the parties. On the next date, it was observed that despite best efforts, compromise could not be effected and the case was adjourned to 13.09.2022. On the next date i.e. 13.09.2022, written statement was not filed and the case was adjourned further for 07.10.2022 and thereafter for 03.11.2022, for the same purpose.

On 07.12.2022, the impugned order was passed, thereby striking off the defence of the petitioner.

Besides the aforesaid, subsequent orders have also been placed on record, which reveal about the case having fixed for evidence of the plaintiff for five dates and no witness was examined. However, it was on 03.08.2023, part statement of PW-1 was recorded and there was also an observation made by the Court concerned about the possibility of amicable settlement between the parties, and the matter was referred to Mediation Centre for 19.08.2023 and report of Mediation Centre was ordered to be awaited for 29.09.2023.

In view of the aforesaid fact situation, it is evident that not much progress has been made, since the passing of the impugned order. In the interest of justice, the revision petition, as such, is hereby accepted and the impugned order is hereby set aside and only one opportunity is given to the petitioner for filing the written statement on 29.09.2023 i.e. the date already fixed before the Lower Court, if the matter is not amicably settled between the parties.

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However, the aforesaid opportunity is given, subject to payment of Rs.10,000/-, as costs, to be deposited in the Poor Patient Fund of PGIMER, Chandigarh, within a period of seven days from today onwards.

Receipt of deposit of costs be put up before the Court concerned, prior to filing of the written statement.

Accordingly, the instant revision petition stands disposed of.

11.09.2023
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(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No