

Balihar Singh

...Petitioner

Versus

Paramjeet Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**Present:** Ms. Nancy Vashistha, Advocate
for the petitioner.

GURBIR SINGH, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 18.08.2023 (Annexure P-3) passed by the Ld. Civil Judge (Jr. Division), Karnal whereby defence of the petitioner in the civil suit was struck off.

2. At the outset, learned counsel for the petitioner submits that the petitioner is about 63 years old and due to medical ailment written statement could not be filed and she further submits that now case is fixed for 11.01.2024 before the learned trial Court and if only one opportunity is granted then petitioner would file the written statement.

3. Heard.

4. Although there is dereliction on behalf of the petitioner but law is well settled that no person should be non-suited merely on the ground of technicalities and party should get decision on merit and no prejudice would be caused to the other party if one opportunity is granted. The other party can be compensated with costs. If at this stage, notice is given to the respondent then disposal of the main case would delay further delay and respondent would be put to financial burden also to engage counsel. So in these circumstances,

revision petition is allowed and the petitioner is given one opportunity to file the written statement subject to the costs of Rs.5,000/- to be paid to the respondent. In case, petitioner fails to do so then it is made clear that no further opportunity shall be granted and this order shall stand automatically vacated.

5. The learned trial Court shall fix the date for filing written statement. Notice of which shall be given to the counsel for the plaintiff. If respondent/plaintiff is not satisfied with this order the respondent/plaintiff can challenge this order by moving application.

6. Petition stands disposed of.

20.10.2023

Parveen kumar

(GURBIR SINGH)
JUDGE

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