

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

**CM No.17832-CII of 2022 in
CR No.5877 of 2022
Date of Decision: 09.01.2023**

Chatar Singh

...Revisionist-Petitioner

Versus

Meena Kumari & Others

...Respondents

CORAM: HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA

Present :- Mr. Jagdish Singh Mahal, Advocate,
for the applicant-revisionist-petitioner.

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MEENAKSHI I. MEHTA, J. (ORAL)

CM No.17832-CII of 2022

This application has been moved on behalf of the applicant/
revisionist-petitioner for seeking the pre-ponement of the date of hearing in
the main petition bearing **CR No.5877 of 2022** from 27.01.2023 to some
earlier date.

Heard.

Keeping in view the reasons as mentioned in the present
application, the same is allowed and the above-said main petition is taken
on the Board today itself.

CR No.5877 of 2022 (O&M)

By way of the instant revision-petition, the petitioner-defendant
(here-in-after to be referred as 'the defendant') has assailed the order dated

07.10.2022 passed by learned Civil Judge (Junior Division), Amritsar (for short 'the trial Court'), whereby his right to defend in Civil Suit No.499 of 2022 has been struck-off on account of non-filing of the written statement by him despite having been granted the last opportunity for this purpose.

2. I have heard learned counsel for the petitioner-defendant in the present revision petition, at the preliminary stage and have also perused the file carefully.

3. Though, the defendant has not filed the written statement well in time but however, keeping in view the fact that in case, he is deprived from filing the same so as to defend in the said Civil Suit, he would suffer an irreparable loss that may further result in the mis-carriage of justice, this Court is of the considered opinion that it would be in the fitness of the things and the ends of justice will also be best served if he (defendant) is allowed to file his written statement but subject to the payment of cost.

4. Resultantly, without issuing the notice to the respondents-plaintiffs so as to avoid any further delay in the trial of the said Civil Suit and also to avert the expenses that they (plaintiffs) may have to incur to defend in the instant petition, the impugned order dated 07.10.2022 is set-aside and the revision petition in hand is hereby disposed of with a direction to the trial Court to afford only one more effective opportunity to the defendant to file his written statement but the payment of the cost of Rs.5,000/- shall be a condition precedent for doing so and in case of the default on his part in filing the written statement or the payment of the cost

on the date as may be fixed by the trial Court, he shall not be entitled to any further opportunity for the said purpose.

5. However, it is further clarified that in case the respondents-plaintiffs feel aggrieved by this order, they shall be at liberty to move an appropriate application to contest the present petition.

09.01.2023
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes*
Whether Reportable: *No*