

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

**CR No.192 of 2024 (O&M)
Date of Decision: 15.01.2024**

Mohammad Nazir

...Revisionist-Petitioner

Versus

Mst. Anwari and others

...Respondents

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

Present:- Mr. Abdul Aziz, Advocate
 for the revisionist-petitioner.

MEENAKSHI I. MEHTA, J. (Oral)

By filing the instant revision-petition under Article 227 of the Constitution of India, the petitioner-defendant (here-in-after to be referred as 'the defendant') has laid challenge to order Annexure P-6 passed by learned Civil Judge (Junior Division), Malerkotla (for short 'the trial Court') on 10.10.2023, whereby application Annexure P-2, as moved by the respondents-plaintiffs with the prayer to strike-off his (defendant's) right to defend in ***Civil Suit No. 769 of 2022*** titled as '***Anwari and others vs. Mohammad Nazir***', has been allowed, while observing that he had not filed the written-statement despite availing numerous opportunities 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 gone through the file carefully.

3. Though, the defendant did not file his written-statement well in time but however, keeping in view the fact that in case, he is deprived of his

valuable right to file the same to defend in the above-referred Civil Suit, he would suffer an irreparable loss that may further lead to/result in 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 to the respondents-plaintiffs.

4. Resultantly, without issuing notice to the respondents-plaintiffs so as to avoid any further delay in the trial of the afore-mentioned Civil Suit and also to avert the expenses that they (respondents) may have to incur to defend in this petition, the impugned order dated 10.10.2023 is set-aside and the revision-petition in hand is, hereby, disposed of with a direction to the trial Court to afford only one effective opportunity to the petitioner-defendant to file his written-statement in the said Civil Suit but the payment of cost of Rs.20,000/- to the respondents-plaintiffs shall be a condition precedent for doing so and in case of default on his (defendant's) part in filing the written-statement or in the payment of the cost on the date as may be scheduled by the trial Court, the defendant shall not be entitled to any further opportunity for the above-said purpose.

5. However, it is further clarified here that in the eventuality of the respondents-plaintiffs feeling aggrieved by this order, they shall be at liberty to move an appropriate application to contest the instant petition.

15.01.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: No