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

CR-1558-2024 (O&M)
Date of decision: 31.07.2024

Karambir Singh

...Petitioner

Versus

Anil Babber and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Piyush Setia, Advocate for the petitioner.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 05.01.2024 (Annexure P-3) passed by the Court of Civil Judge (Junior Division)-cum-Judicial Magistrate Ist Class, Abohar, whereby the defence of the petitioner has been struck off.

2. It is not in dispute that respondent Nos.1 and 2 had filed a suit for specific performance of agreement to sell dated 29.07.2016 with respect to land measuring 16 kanals 5 marlas. The present petitioner is defendant No.2 in the said civil suit and the father of the petitioner is defendant No.1. In the plaint, it has been stated that defendant No.1 had entered into an agreement to sell and in para 10, it has been stated that defendant No.1 did not execute the sale deed in favour of plaintiffs, rather transferred the land by virtue of a transfer deed in favour of defendant Nos.2 to 4.

3. Learned counsel for the petitioner has fairly submitted that defendant No.1 has filed reply and so have defendant Nos.3 and 4.



4. A perusal of the zimni orders would show that the suit was instituted on 26.06.2020 and the petitioner through his counsel had appeared on 17.08.2020 and had sought an adjournment to file reply. On 20.08.2020, an adjournment was again sought on behalf of defendant Nos.1 and 2 for filing reply. Another adjournment was sought on 21.08.2020 to file the written statement. From 04.09.2020 to 05.10.2020, although due to COVID-19 the Court was not held, but the case was adjourned for the purpose already fixed, i.e., for filing the written statement. On 11.01.2021, when COVID-19 had subsided, another adjournment was sought by defendant Nos.1 and 2 to file reply. It is the case of the petitioner that he had filed an application under Order 7 Rule 11 CPC on 18.02.2021, although the zimni order dated 18.02.2021 is not on record, and the said application was dismissed on 14.09.2023.

5. After 14.09.2023, the case was fixed for 27.10.2023 on which date also the reply was not filed and the matter was adjourned to 24.11.2023. On 24.11.2023, defendant No.2 did not again file the written statement, and the matter was adjourned to 14.12.2023, only for the purpose of filing of reply by defendant No.2. Even on 14.12.2023, no reply was filed by defendant No.2 and thereafter, the matter was adjourned to 05.01.2024. On 05.01.2024 also, the reply was not filed by defendant No.2 and thus, by virtue of the order dated 05.01.2024, defence of defendant No.2 was struck off by the Court. Order dated 05.01.2024 was passed by the trial Court after giving more than sufficient opportunities to defendant No.2 to file his reply but defendant No.2 sought repeated adjournments only to delay the proceedings in a suit for specific performance filed by respondent Nos.1 and



2. Father of defendant No.2 had already filed his reply and even, as has been fairly stated by learned counsel for the petitioner, defendant Nos.3 and 4 had filed their reply and apparently, defendant No.2 has purposely not filed the reply so as to delay the proceedings. The argument sought to be raised by the learned counsel on behalf of the petitioner to the effect that the counsel representing defendant No.2 in the trial Court had not informed him about the last couple of dates, before the defence of defendant No.2 was struck off, also does not inspire confidence. Moreover, it is the duty of the client to remain in touch with the counsel and inquire about the proceedings. It would also be relevant to note that after passing of the impugned order, the issues in the present case have been framed on 13.02.2024 and even the examination-in-chief of one witness has been recorded and thus, any indulgence by this Court would lead to further delay in the matter.

6. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that sufficient opportunities have been granted to the petitioner and no further opportunity is required to be granted and the impugned order passed by the trial Court is in accordance with law and does not call for any interference and thus, the present revision petition being meritless, is accordingly dismissed.

7. All the pending miscellaneous applications, if any, shall stand disposed of in view of the abovesaid order.

31.07.2024

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No