

2024:PHHC:074148



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

**CR-2955-2024(O&M)**

**Date of Decision: May 24, 2024**

Gavinder Singh @ Garvinder Singh

...Petitioner

Versus

Surinder Singh and others

...Respondents

**CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI**

Present: Mr.Davinder Singh Saini, Advocate  
for the petitioner.

\*\*\*\*

**ARCHANA PURI, J.**

The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India, seeking thereby, setting aside of the order dated 06.02.2024 (at page 20 of the paperbook), whereby, the defence of the petitioner was struck off, on account of non-filing of the written statement.

Heard.

As culled out from the paperbook, it is evident that Surinder Singh-respondent No.1, had filed a suit for separate possession, by way of partition and during the pendency of the said suit, at first instance, as evident from the zimini orders, the petitioner-defendant No.1 had made appearance on 26.09.2023 and memo of appearance was filed by the counsel. Thereafter, the case was adjourned to 30.10.2023. However, the file was taken up by the concerned officer on 27.10.2023, as the Officer was

**CR-2955-2024****-2-**

proceeding on leave on the date fixed and the case was fixed for 02.12.2023. On that day, counsel making appearance on behalf of the petitioner-defendant No.1 had made appearance and filed Power of Attorney and the case was further adjourned for filing written statement for 04.01.2024. On 04.01.2024, the written statement was not filed and the case was adjourned to 06.02.2024 and on that date, the impugned was passed.

However, it is pertinent to mention that simultaneously, while granting opportunity to the petitioner to file written statement, the case was being proceeded for effecting service of remaining respondents. In the given circumstances and also, in the interest of justice, considering the nature of the suit, without prejudice to the rights of the parties, to be adjudicated on merits, the present revision petition is hereby allowed and the impugned order is partially set aside, qua striking off the defence of the petitioner, as observed in the last paragraph of the impugned order.

On query, it was disclosed that the next date fixed before learned trial Court is 17.07.2024. In the light of the same, the petitioner-defendant No.1 shall be granted only one opportunity to make appearance before learned trial Court on 17.07.2024 and file written statement on that very day. In any case, learned trial Court shall not grant any further adjournment for filing of the written statement, at the instance of the petitioner-defendant No.1.

**May 24, 2024**  
Vgulati

**(ARCHANA PURI)**  
**JUDGE**

Whether speaking/reasoned  
Whether reportable

**Yes**  
**Yes/No**