

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

Sr. No.134

CR-3402-2024

Date of Decision: 30.05.2024

SANJEEV PRAKASH

....Petitioner

Versus

RAJEEV PRAKASH AND OTHERS

.....Respondents

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Arjun Sharma, Advocate
for the petitioner.

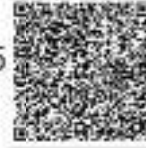
ARCHANA PURI, J. (Oral)

Challenge in the present revision petition is to the order dated 06.12.2022 (Annexure P-1) passed by the Court below in a Civil Suit No.1248/2022, whereby the defence of the petitioner (who is defendant No.3 before the Court below), was struck off.

Learned counsel for the petitioner heard.

To substantiate his submission, learned counsel for the petitioner has placed on record, copies of various zimini orders, passed by learned Trial Court.

On query by the Court, it is submitted by learned counsel for the petitioner that the family dispute is there between the parties to the lis, relating to which, declaratory suit had been filed and copy of plaint is Annexure P-2.



However, when the case was at the stage of filing of the written statement, at the instance of the present petitioner (defendant No.3 before the Court below), on account of written statement having not been filed, the defence of the present petitioner was struck off.

It is submitted that petitioner/defendant No.3, had made appearance through counsel for the first time on 17.08.2022 and further the case stands adjourned to 02.09.2022 for filing of Power of Attorney, as well as written statement and then the case stood adjourned to 12.10.2022 and further for 19.10.2022. Thereafter, the case stood adjourned to 06.12.2022, when the impugned order was passed. The submissions, so made, have been substantiated from the zimini orders, copies whereof have been placed on record.

From the copies of the zimini orders coming on record, it is evident that there are other persons, who are impleaded as defendants No.1, 2, 4 and 5. Defendant No.2 is seemingly *ex parte* and on query it has been disclosed that written statement at the behest of the defendants No.1, 4 and 5 has already been filed. However, from the zimini orders, it is evident that even after, defence was struck off vide the impugned order, the case had not made much progress and is still pending for stay application. During the pendency of the same, another application under Order 11 Rule 12 and 14 CPC was filed.

Keeping in view the aforesaid fact situation and also in the interest of justice, that the family dispute should always be settled by giving an appropriate opportunity to the parties, to make appropriate



representation and submission of their case, without prejudice to the rights of the parties, to be adjudicated on merits, the impugned order is set aside and the instant revision petition, is hereby allowed and petitioner/defendant No.3, is given one opportunity to file the written statement, on 02.07.2024 i.e. the date already fixed before the Court below.

In view of the aforesaid terms, the instant revision petition is hereby disposed of.

30.05.2024
Sonu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No