



CR-5445-2024

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

(115)

CR-5445-2024

Date of Decision: - 04.10.2024

Raj Pal

....Petitioner

Versus

Jitender and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE VIKAS BAHL

Present:- Mr. Manav Ahlawat, Advocate
for Mr. Rohit Mittal, Advocate,
for the petitioner.

VIKAS BAHL, J. (ORAL)

1. Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 15.10.2023 (Annexure P-3) passed by the Civil Judge (Junior Division), Narnaul, whereby the evidence of the petitioner, who is defendant No.3, has been struck off.

2. Learned counsel for the petitioner has submitted that in the present case, when the case was fixed on 13.12.2021 for filing the written statement, the petitioner had arranged all documents required for filing the written statement and had handed over the same to the counsel for the petitioner before the trial Court and had even given him the instructions to file the written statement on the said date. It is submitted that it is only

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after he had asked the counsel for a copy of the written statement that the petitioner learnt that the counsel had not filed the written statement. It is stated that upto the date of passing of the impugned order dated 05.10.2023, no effective hearing had taken place. Even on 05.10.2023, an application for impleading the LR's of defendants No.8, 9 and 24 was filed by the plaintiff and the case was adjourned to 03.05.2024. Learned counsel for the petitioner has further brought to the notice of this Court the zimni orders subsequent to the passing of the impugned order. It is submitted that on 03.05.2024, the reply to the application for impleading the LR's of defendant Nos.8, 9 and 24 was not filed and subsequently, the case was adjourned to 01.07.2024 for filing reply to the said application and on 01.07.2024, since work had been suspended by the Bar, the case was adjourned to 23.08.2024. It is stated that on 23.08.2024, the issues were framed and thus, only on the said date i.e. 23.08.2024, effective proceeding had taken place and that the case is now fixed for 17.12.2024. It is submitted that one last opportunity be granted to the petitioner to file the written statement and for the inconvenience caused to respondent No.1-plaintiff, the petitioner is ready to pay adequate costs.

3. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the petitioner should be granted one opportunity to file the written statement and accordingly, the present revision petition is partly allowed and the impugned order dated 15.10.2023 (Annexure P-3) is set aside to the extent that defence of the petitioner (defendant No.3) has been struck off and the petitioner is

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granted one opportunity to file his written statement on or before 25.10.2024, with an advance copy to the counsel for the plaintiff appearing before the trial Court and the same would be subject to the petitioner depositing the cost of Rs.25,000/- on or before 25.10.2024 . On depositing the said amount, the same would be released by the trial Court to respondent No.1-plaintiff.

4. It is made clear that in case, the said cost is not deposited by the petitioner till the said date and the written statement is not filed on or before the said date, the present revision petition would be deemed to have been dismissed.

5. It would be relevant to mention that notice of motion has not been issued to respondent No.1-plaintiff as issuance of any notice would further delay the proceedings in the suit and would also entail expenses for respondent No.1 in order to defend the present petition. However, it would be open to respondent No.1 to move an application for recalling the present order in case, any of the statement made before this Court is found to be false/incorrect.

October 04, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No