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

CR-4915-2024

Date of decision: 06.11.2024

Som Parkash

...Petitioner

Versus

General Public and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Saurabh Kaushik, Advocate for the petitioner.

Mr. Chandeeep Singh, Advocate for respondent Nos.12 and 13.

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 09.07.2024 (Annexure P-4) passed by the Additional Civil Judge (Senior Division), Patiala whereby an application of respondent No.5 for allowing him to give defence in his evidence, which was earlier struck off, has been allowed.

2. Learned counsel for the petitioner has submitted that even a perusal of the impugned order would show that respondent No.5 had appeared through his counsel on 08.09.2022 and thereafter, the case was adjourned to five dates for filing the written statement and even on the sixth date, i.e., 25.07.2023, the written statement was not filed by respondent No.5 and thus, the defence was struck off. It is submitted that at any rate,



the cost imposed by the Additional Civil Judge (Senior Division) to the extent of Rs.2000/- is very meager and higher costs should have been imposed on respondent No.5 as respondent No.5 had unduly delayed the proceedings.

3. Notice of motion was issued by the Coordinate Bench of this Court on 09.09.2024 and as per the report of the Registry, although, respondent No.5 had been served but none has appeared on behalf of respondent No.5.

4. This Court has heard learned counsel for the parties and has perused the paper book.

5. A perusal of the order dated 09.07.2024 would show that it had been observed by the trial Court that the plaintiff had not led any evidence and the case was still at the initial stage and thus, had rightly passed the impugned order and had granted one opportunity to respondent No.5 to file the written statement. The endeavour of every Court should be to decide cases on merits instead of technicalities. However, the cost of Rs.2000/- which had been imposed on respondent No.5 is inadequate and in the facts and circumstances of this case, this Court is of opinion that respondent No.5 needs to be burdened with adequate costs so as to compensate the petitioner for the delay caused on account of his mis-conduct. Accordingly, the cost is increased from Rs.2000/- to Rs.15,000/- and respondent No.5 is directed to deposit the said cost within a period of two weeks from the next date before the trial Court. After respondent No.5 deposits the said cost, the same would be released to the petitioner by the trial Court. The petitioner undertakes to inform the trial Court about the passing of the present order on the next date

of hearing and also to the counsel for respondent No.5 appearing before the trial Court.

6. In view of what has been observed above, the present revision petition is disposed of.

06.11.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:-	Yes/No
Whether reportable:-	Yes/No