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

CR-5368-2024 (O&M)
Date of decision: 17.09.2024

Inder Singh

...Petitioner

Versus

Kuldeep and others

...Respondents

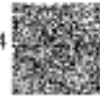
CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Vivek Sheoran, 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 order dated 16.05.2024 (Annexure P-6) vide which the defence of the petitioner was struck off in the civil suit titled as “Kuldeep Vs. Inder Singh and others” bearing No.CS/132/2023 (Annexure P-1).

2. Learned counsel for the petitioner has submitted that in the main case, there were 13 defendants and the petitioner/defendant No.1 had appeared before the trial Court on 12.10.2023 whereas no one had appeared on behalf of defendant Nos.3, 9 and 11 and consequently, the defendant Nos.3, 9 and 11 were proceeded against ex parte. Moreover, fresh notice was issued to the defendant Nos.2, 4 to 8, 10 and 12 and the case was adjourned to 11.12.2023. It has further been pointed out that on 12.10.2023,



the trial Court had also passed an order for maintaining status quo w.r.t. construction on the land in question. It is submitted that on 11.12.2023 (Annexure P-3), it was observed by the trial Court that notice could not be issued to defendant Nos.2, 4 to 8, 10 and 12 for want of registered AD and thus, fresh notice was issued to them for 15.02.2024 and that even on 15.02.2024, it was recorded by the trial Court that notice could not be issued to defendant Nos.2, 4 to 8, 10 and 12 as copy of the plaint and registered AD had not been supplied and thereafter, the matter was adjourned to 18.04.2024.

3. It is submitted that even on 18.04.2024, no effective proceedings had taken place and it was observed by the trial Court that notice issued to defendant Nos.2, 4 to 8 and 12 had not been received back and consequently, fresh notice was issued to them for 16.05.2024, on which date, the defence of the petitioner was struck off. It is further submitted that although, the costs of Rs.100/- and Rs.200/- were imposed upon the petitioner on the earlier dates but a perusal of the zimni orders, before passing of the order dated 16.05.2024, would show that no effective proceedings had taken place on account of non-service of the other defendants. It is submitted that the interim order was also passed in favour of the plaintiff/respondent.

4. Learned counsel for the petitioner has highlighted that the case is now fixed for 01.10.2024 for cross-examination of PW1-Kuldeep and examination-in-chief of only one plaintiff witness has taken place till date and the petitioner undertakes to file a reply on or before 01.10.2024 and for the delay caused, he is also ready to compensate the plaintiff. It is further



submitted that the petitioner is 81 years of age and does not maintain good health and thus, could not actively follow up on the case but he now undertakes to follow up on the case.

5. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that one last opportunity should be granted to the petitioner, who is stated to be 81 years old and is the sole contesting defendant, i.e., defendant No.1, to file the written statement. Accordingly the impugned order dated 16.05.2024 (Annexure P-6) is set aside to the extent that defence of the petitioner/defendant No.1 has been struck off and the petitioner is granted liberty to file the written statement on or before 01.10.2024 with an advance copy to learned counsel for the plaintiff/respondent No.1 appearing before the trial Court and the same would be subject to the petitioner depositing an amount of Rs.15,000/- on or before 01.10.2024 with the trial Court and the trial Court is directed to release the same to the respondent No.1/plaintiff.

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

7. It is made clear that in case, the petitioner does not file the written statement on or before 01.10.2024 or does not deposit the said costs on or before the said date, then, the present revision petition would be deemed to have been dismissed. The petitioner and his counsel would diligently follow up on the case and would not cause any delay in the suit proceedings.

8. In the present case, no notice is being issued to the respondents as issuance of notice to them would further delay the proceedings and



would also entail expenses for respondent No.1 to defend the present revision petition. However, it would be open to respondent No.1 to move an application for recalling of the present order, in case, any of the statement made before this Court is found to be false/incorrect.

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

17.09.2024
Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No