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

CR-366-2022 (O&M)
Date of decision: 20.02.2025

Anil Kumar

...Petitioner

Versus

Ashwani Kumar Seth and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. R.S. Bajaj, Advocate and
Mr. Sachin Kalia, Advocate for the petitioner.

Mr. Rishabh Gupta, Advocate for respondent No.1.

Mr. Rajinder Sharma, Advocate for respondent No.2.
(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for quashing of order dated 16.09.2021 (Annexure P-7) passed by the Civil Judge (Junior Division), Jalandhar in CS-568-2018 titled as “Ashwani Kumar Sethi Vs. Anil Kumar Seth and another” whereby an application filed by respondent No.1-plaintiff under Order 8 Rule 10 read with Section 151 CPC for striking off the defence of the petitioner has been allowed.

2. Learned counsel for the petitioner has submitted that petitioner is defendant No.1 in the suit and in case he is not permitted to file his



written statement then he will suffer irreparable loss.

3. Learned counsel for the respondents have submitted that respondent No.1-plaintiff has already examined two witnesses who have also been cross-examined by the petitioner-defendant No.1 and thus, no opportunity should be granted to the petitioner to cross-examine the said two witnesses. It is submitted that since several dates were taken by the petitioner for filing written statement, thus, in case any opportunity is to be granted then only one last opportunity be granted and that too with heavy costs.

4. Learned counsel for the petitioner has submitted that in view of the objection raised on behalf of the learned counsel for the respondents, the petitioner is ready to pay heavy costs to the plaintiff as well as defendant No.2 and has submitted that he would file the written statement within a period of 15 days from today and would also not cross-examine the said two plaintiff's witnesses, who have already been cross-examined.

5. Keeping in view the abovesaid facts and circumstances and the fair stand taken by learned counsel for the petitioner as well as learned counsel for the respondents, the present revision petition is partly allowed and the impugned order dated 16.09.2021 to the extent that defence of the petitioner/defendant No.1 has been struck off, is set aside with the following observations/directions:-

- i) The petitioner would file the written statement within a period of 15 days from today and would also deposit an amount of Rs.1,20,000/- within the aforesaid period before the trial Court. The said amount of Rs.1,20,000/- would be released to the respondents. Respondent



No.1-Ashwani Kumar Seth, who is the plaintiff in the suit, would be paid Rs.80,000/- and respondent No.2-Smt. Renu, who is defendant No.2 in the suit, would be paid Rs.40,000/-. In case the said amount is not deposited and the written statement is not filed within the aforesaid period, then the present revision petition would be deemed to have been dismissed.

- ii) The petitioner would not be given any right to further cross-examine the said two plaintiff's witnesses, who have already been cross-examined. However, in case the above conditions are met, the petitioner be permitted to cross-examine the other witnesses of the plaintiff who have to be examined and would also be permitted to contest the case in accordance with law.

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

20.02.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No