

**CR-694-2025(O&M)****-1-****120+256****IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-694-2025(O&M)****Date of decision:-07.02.2025**

Mohan Lal

...Petitioner

Versus

Subhash Chand and others

...Respondents

CORAM : HON'BLE MR. JUSTICE SUVIR SEHGALPresent: Mr. Vineet Chaudhary, Advocate
for the petitioner.Mr.Amit Jaiswal, Advocate
for respondent No.1.

SUVIR SEHGAL, J.(ORAL)

1. Petitioner – defendant No.3 is in revision petition before this Court under Article 227 of the Constitution of India assailing order dated 10.01.2025, Annexure P8, to the extent he has been denied permission to file written statement and contest the suit filed by respondent No.1 – plaintiff.

2. Mr. Vineet Chaudhary, Advocate submits that petitioner – defendant No.3 was proceeded against ex-parte before the Trial Court and by order dated 12.12.2024, Annexure P5, ex-parte order was set aside and he was permitted to join the proceedings. He states that

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petitioner moved an application, Annexure P6, for permitting him to file the written statement, which has been declined vide the impugned order. Counsel asserts that the plaintiff is leading evidence and in case the petitioner is permitted to file written statement, he will not seek recall of any of the witnesses produced by the plaintiff, who have already been cross-examined.

3. Mr. Amit Jaiswal, Advocate has put in appearance on behalf of the contesting respondent No.1 – plaintiff and has filed vakalatnama, which is taken on record. While opposing the prayer made in the petition, he submits that the application, Annexure P6, has been moved at a belated stage and much water has flown down the river in the interregnum.

4. I have heard counsel for the parties and considered their respective submissions.

5. Respondent No.1 – plaintiff filed a suit, Annexure P1, for declaration to the effect that he is the exclusive owner in possession of the suit property and that judgment and decree dated 06.01.1990 passed in an earlier suit has been fraudulently obtained by the defendants. Upon service, defendants appeared before the Trial Court and by order dated 01.09.2012, petitioner – defendant No.3 was proceeded against ex-parte. Plaintiff produced some witnesses, but on 03.07.2015, civil suit was dismissed in default and an application for restoration of the suit was rejected by the Trial Court vide order dated 30.05.2022, Annexure P2. An appeal preferred by the plaintiff was accepted by the learned District Judge, Ambala on 04.11.2024, Annexure P3, and pursuant thereto,

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parties appeared before the Trial Court on 25.11.2024. Petitioner – defendant No.3 moved an application for setting aside the ex-parte order, to which no objection was given by the plaintiff and by order dated 12.12.2024, Annexure P5, ex-parte order has been set aside and defendant No.3 has been permitted to join the proceedings. Plaintiff was given last opportunity to produce his entire evidence and he examined some witnesses. An application dated 02.01.2025, Annexure P6 was moved by defendant No.3 for permission to file the written statement, which after contest has been declined vide order, Annexure P8, which is under challenge in the instant petition.

6. From the above narration, it is apparent that there has been a delay on the part of defendant No.3 in filing the written statement, but this Court cannot lose sight of the fact that the suit was restored after nine years and defendant No.3 has been permitted to join the proceedings, after setting aside the ex-parte order. Therefore, an application filed by him for permission to file the written statement should have been accepted by the Trial Court. This Court is of the view that in case petitioner – defendant No.3 is not permitted to file his response and contest the suit, his interest is likely to be seriously prejudiced. Therefore, an opportunity deserves to be granted to him to file the written statement and he can be burdened with cost for the delay.

7. In view of the above, an opportunity is afforded to the petitioner – defendant No.3 to file his written statement, subject to deposit of cost of Rs.25,000/- with Spinal Rehabilitation Centre, Plot No.1, Sector 28, Madhya Marg, Chandigarh, Bank A/C Number –

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9612001641, IFSC: KKBK0004201. The deposit of cost will be a condition precedent to the grant of opportunity to the petitioner. Written statement be filed by the petitioner – defendant No.3 on or before 28.02.2025 and no further opportunity shall be granted to him. Needless to mention, respondent No.1 – plaintiff will be entitled to file a replication within a period of two weeks thereafter, if so advised.

8. Revision petition as well as miscellaneous application shall stand disposed off.

(SUVIR SEHGAL)
JUDGE

07.02.2025
Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No