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IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

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Date of decision : 14.02.2025

Pushpant Singh Sandhu

... Petitioner

Versus

Gaurav Munjal and another

... Respondent

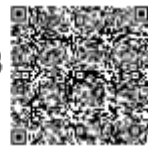
CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Saurabh Kapoor, Advocate and
Mr.Narender Kumar Rana, Advocate
for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India read with section 151 CPC for setting aside the impugned order dated 13.08.2024 (Annexure P-37) passed by the Civil Judge (Jr.Div.), Ludhiana, vide which the defence of the petitioner has been struck off.

2. A perusal of the paper book would show that the respondent no.1 had filed a suit for possession by way of specific performance of the agreement to sell dated 04.06.2020 with respect to the property in question against the present petitioner and his brother Jagwant Singh Sandhu (defendant no.1). The present petitioner has been impleaded as defendant no.2 in the said suit. The suit was filed in the year 2022 and on 08.03.2022

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brother i.e., petitioner) had been duly served and the counsel had appeared on behalf of defendant no.1 (brother of the petitioner) but no one had appeared on behalf of the petitioner and thus, he was proceeded against ex-parte. Written statement was filed by the defendant no.1 (brother of the petitioner) on 07.04.2022 and thereafter on the next date i.e., 30.04.2022, replication by the plaintiff was also filed. On 31.05.2022, the application under Order 39 Rules 1 and 2 CPC was decided by the trial Court and the present petitioner and his brother were restrained from alienating the suit property and from delivering its possession to anybody else except the plaintiff. On 31.05.2022, issues were also framed by the Court and thereafter on 09.01.2023 two witnesses i.e., PW-1 and PW-2 had tendered their affidavits.

3. On 11.04.2023, the present petitioner through his counsel had filed power of attorney and had moved an application for setting aside the ex-parte proceedings against the defendant no.2. The said ex-parte proceedings were set aside vide order dated 07.08.2023 and the same was subject to payment of costs of Rs.2000/- to be paid by the defendant no.2 to the plaintiff and the case was adjourned to 22.09.2023 for filing of written statement by the defendant no.2. The said order dated 07.08.2023 was not challenged by the petitioner and rather it was in his favour and it was incumbent upon the petitioner to pay costs and to file written statement on 22.09.2023 which was the next date. However on 22.09.2023, the petitioner did not file the written statement and thereafter the matter was adjourned to 30.10.2023 and to further delay the proceedings, the petitioner moved an

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application for production of documents whereas on 12.03.2024 it was brought to the notice of the Court that the original documents which were sought by the present petitioner were already on judicial file. Thus, every possible endeavour was made by the petitioner to delay the proceedings in the suit. Even on 29.04.2024, the written statement was not filed and the matter was adjourned to 30.05.2024 for filing of written statement subject to “special opportunity”. Neither on 30.05.2024 nor on the next date i.e., 13.08.2024 the written statement was filed and thus, the defence of the petitioner was struck off. After 13.08.2024, the case was adjourned to 09.10.2024 and a statement by respondent-plaintiff was made that two PWs had already been examined on 09.01.2023 in the presence of defendant no.1. Regarding the same he stated that the same be read as evidence in the presence of the defendant no.2 and the case was adjourned for cross-examination of the said two witnesses for 13.11.2024. The order dated 13.08.2024 was challenged by filing a revision petition i.e., CR-6963-2024, which was withdrawn with liberty to file a fresh petition after annexing all the zimni orders on 29.01.2025. Thereafter, the present petition has been filed.

4. From the abovesaid facts and circumstances, it is apparent that the petitioner along with his brother has made every effort to delay the proceedings. In spite of the fact that the brother of the petitioner had appeared on 08.03.2022 and it was reported that the present petitioner had also been served, the petitioner chose not to appear. Even the application filed for setting aside the ex-parte order was allowed vide order dated



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07.08.2023 and the case was adjourned to 22.09.2023 for paying costs and for filing of written statement by the petitioner. The written statement was not filed on 22.09.2023. For a period of more than 10 months, the matter was adjourned and even on 13.08.2024, the said written statement was not filed in spite of “special opportunity” having been given. The issues have already been framed and the examination-in-chief of two witnesses have already been recorded. The written statement filed by the brother of the petitioner is also on record. Any indulgence by this Court would delay the matter and would cause prejudice to the rights of the plaintiff, who had filed suit for possession by way of specific performance of agreement to sell and would bring the case to the stage of framing of issues, which have already been framed on 31.05.2022.

5. Keeping in view the abovesaid facts and circumstances, this Court finds that the impugned order is in accordance with law and no case is made out for interference and accordingly, the revision petition is dismissed.

(VIKAS BAHL)
JUDGE

February 14, 2025.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No