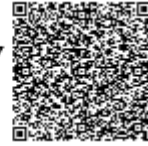


2026:PHHC:083137



120 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4060-2019 (O&M)
Decided on:-22.05.2026

Tanjit Kaur

....Petitioner..

VS.

Manjit Kaur

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. A.S. Barnala, Advocate,
for the petitioner.

None for the respondent.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition, challenge has been made to an order dated 13.05.2019 (Annexure P-7) passed by the learned Civil Judge (Senior Division, Patiala), whereby defence of the petitioner-defendant has been struck off.

2. Briefly stating, the respondent/plaintiff filed a civil suit for defamation against the petitioner/defendant. In the said suit, the respondent/plaintiff failed to supply the documents/annexures relied upon in the plaint, therefore, the petitioner/defendant moved an application dated 15.09.2014 seeking production and supply of the said documents/annexures. Vide order dated 15.09.2014, the learned Civil Judge (Senior Division) directed the respondent/plaintiff to file reply to the aforesaid application. Despite the aforesaid order, the respondent/plaintiff neither filed any reply to

the application nor supplied the documents/annexures sought by the petitioner/defendant. Thereafter, on 01.12.2014, the suit filed by the respondent/plaintiff came to be dismissed in default. Subsequently, the respondent/plaintiff filed an application for restoration of the suit and the same was allowed by the learned Trial Court. Even after restoration of the suit, the respondent/plaintiff neither filed reply to the pending application of the petitioner/defendant nor supplied the documents/annexures relied upon in the plaint. Later on, vide order dated 28.09.2015, the petitioner/defendant was proceeded against ex parte by the learned Trial Court. Upon coming to know about the ex parte order, the petitioner/defendant moved an application for setting aside the ex parte order, which was allowed and the ex parte proceedings against her were set aside, subject to payment of costs of Rs.2,000/- vide order dated 08.01.2019 and the case was adjourned to 15.02.2019 and the said date was duly noted by the counsel for the petitioner/defendant in his diary. However, the learned Trial Court took up the matter on 08.02.2019 and passed the following order:-

“File taken up today as the undersigned will be availing joining time from 11.02.2019 to 16.02.2019. Therefore, the case is adjourned to 13.05.2019 for the purpose already fixed. Parties and their counsel be informed accordingly.”

Neither the petitioner/defendant nor her counsel had any knowledge regarding the preponement of the date from 15.02.2019 to 08.02.2019, as the next date recorded in the diary of the counsel continued to be 15.02.2019 and when counsel for the petitioner/defendant appeared before the learned Trial Court on 15.02.2019, he was informed that the next date of hearing had been fixed as 13.05.2019, which was thereafter noted in the counsel's diary. It was pleaded that neither the petitioner/defendant nor

her counsel was ever intimated regarding the advancement/preponement of the date of hearing by the learned Trial Court and vide order dated 13.05.2019, defence of the petitioner was ordered to be struck off by the trial Court.

3. Impugning the aforesaid order dated 13.05.2019, learned counsel for the petitioner submits that the learned trial Court struck off the defence of the petitioner during pendency of application dated 15.09.2014 seeking supply of document/annexures on which respondent-plaintiff was relying upon in the plaint and in the absence of the same, the petitioner-defendant could not file her written statement. He further submits that in the absence of any defence being put-forth, the petitioner will not be able to defend her case in an effective manner which definitely will cause serious prejudice to her rights therein.

4. I have heard learned counsel for the petitioner and gone through the paper-book as well as the zimni orders passed by the learned trial Court, which have been annexed with the petition as Annexures P-2 to P-6. I find substance in the submissions made on behalf of the petitioner.

5. In the humble opinion of this Court, in case, the impugned order is allowed to stand, the petitioner would be deprived of her right to file the written statement; she would not be able to put-forth her defence to the case set up by respondent-plaintiff in the plaint. Though, there appears to be lack of due diligence on the part of the petitioner while contesting the suit, however, considering the fact that ever since the passing of the impugned order, the proceedings in the said suit have not moved further, as such, it would be in the interest of justice to grant one effective opportunity to the petitioner, so as to file the written statement in order to protect her

substantial rights involved in the suit.

6. Even the Hon'ble Supreme Court in ***"Kailash Vs. Nanhku and ors."***, 2005 (2) RCR (Civil) 379, while considering the provisions of Order VIII Rule 1 CPC, has held that the same being part of procedural law is therefore directory in nature. Still further, keeping in view the substantial justice, the Hon'ble Supreme Court in ***"Siddalingayya Vs. Gurulingappa and ors."***, 2018 (1) RCR (Civil) 543, under somewhat similar circumstances, upheld the opportunity of filing written statement granted by the High Court. Even otherwise, upholding of the impugned order will cause serious prejudice to the rights of the petitioner, as she will not be able to contest the case set up by the respondent(s).

7. Accordingly by adopting a pragmatic approach; rather than being hyper-technical, the present revision petition is allowed. Impugned order dated 13.05.2019 passed by the trial Court, is ordered to be set aside, thereby granting one effective opportunity to the petitioner so as to file her written statement before the trial Court.

8. The aforesaid order shall be subject to payment of costs of Rs.15,000/-, to be paid by the petitioner to the respondent-plaintiff at the time of filing written statement before the trial Court.

A copy of this order be sent to learned counsel for the parties for compliance.

9. Pending application(s), if any, also stand disposed of.

22.05.2026
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(HARKESH MANUJA)
JUDGE

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