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

CR-4363-2022

Date of decision : 23.09.2025

HARPAL SINGH GREWAL

...Petitioner

Versus

KAMLESH KUMARI AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sahil Nain, Advocate for
Mr. Sandeep Kumar, Advocate for the petitioner.

Mr. Jaideep Verma, Advocate for respondent No.1.

PANKAJ JAIN, J. (ORAL)

The challenge is to the order dated 13.09.2022 passed by Civil Judge (Junior Division), Ludhiana whereby the application filed by the respondent under Order VIII Rule 10 read with Section 151 CPC for striking of the defence of defendant No.1, stands allowed and the defence of the petitioner has been ordered to be struck off.

2. The petitioner is a defendant who is facing suit for declaration w.r.t. immovable property. The petitioner/defendant was summoned for 29.09.2021 and could not file written statement despite repeated opportunities. Cost was imposed upon the petitioner. On 12.05.2022 though the petitioner filed written statement but the same was neither signed nor verified and was filed only under the signatures of the counsel. Even the cost of Rs.8,00/- was not paid.



3. On 12.05.2022, following order was passed:

“Present: Sh. B.B. Gambir, ld. counsel for plaintiff
Sh.Balraj Singh, ld. counsel for def.no.1
Defendants no.2 & 3 exparte.

Written statement and reply to the stay application filed. Copy supplied.

Costs not paid. ld. counsel for def.no.1 has undertakn that he will deposit the costs of Rs.800/- by tomorrow. Heard.

Now to come up on 19.07.2022 for filling replication to the written statement. Receipt regarding payment of costs be also produced.

Date of Order: 12.05.2022

(Nirmala Devi)
Civil Judge (Jr. Division)
Ludhiana,
UID No.PB0411

At this stage, file taken up again, as it has transpired that the written statement filed by defendant no.1 is neither signed by the defendant no.1 nor it is verified by him nor supported with affidavit. This written statement, is hence, not tenable and shall not be considered proper on the file.

Date of Order: 12.05.2022

(Nirmala Devi)
Civil Judge (Jr. Division)
Ludhiana,
UID No.PB0411”

4. The respondents moved an application under Order VIII Rule 10 read with Section 151 CPC praying for striking off defence of defendant No.1. It was claimed that since the Trial Court vide order dated 12.05.2022 declared that the written statement filed is not tenable and shall not be considered proper, it is no written statement in the eyes of law. The defendants having failed to file written statement within the prescribed period of time, their defence be ordered to be struck off.

5. Defendant No.1/the petitioner filed an application under Section 151 CPC seeking permission to file written statement. The plea raised in the application reads as under:



“2. That the applicant/defendant no.1 is at present residing in abroad. However at the time of engaging his counsel, the applicant was present in Ludhiana and the counsel of the defendant no. 1 got prepared/drafted the written statement as per his instructions, which was duly signed by him. Lateron the defendant no.1 left India to abroad. But at the time of filing of written statement, the above said written statement which was duly signed by the defendant no.1 was lost. However at that time it was necessary to file the written statement in the court as this Hon’ble Court has given last opportunity to the defendant no. 1 alongwith cost, resultantly the counsel of the defendant no.1 filed the same after taking new printouts of the written statement.

3. That recently the counsel of defendant no. 1 got the above said written statement which was signed by the defendant no.1, from his another file, as such the applicant wants to file the same.”

6. Trial Court vide impugned order has dismissed the application filed by the petitioner declining the prayer to file written statement afresh and has allowed the application filed by respondents under Order VIII Rule 10 read with Section 151 CPC striking off the defence of the petitioner.

7. Having heard counsel for the parties and after carefully perusing the records of the case, this Court finds that keeping in view the facts and circumstances of the case, it would be in the interest of justice that the petitioner is granted one opportunity to file written statement as the plaintiff can be compensated for the delay caused by the conduct of defendant No.1/petitioner.

8. Consequently, the present revision petition is allowed. The impugned order passed by the Trial Court dated 13.09.2022 is hereby



ordered to be set aside, subject to payment of Rs.10,000/- as costs which shall be paid to the plaintiff.

9. Counsel for the petitioner has undertaken to file the written statement on the next date fixed before the Trial Court. The petitioner shall remain bound by his undertaking and shall file written statement positively on the next date. Failing which, the present revision petition shall be deemed to have been dismissed and the impugned order shall come in operation.

10. In the aforesaid terms, the instant revision petitions is allowed.

September 23, 2025

**(Pankaj Jain)
Judge**

Dpr

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