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

CR-3201-2025

Date of decision : 27.05.2025

Eid Ghah Kabristan Intzamia (Regd.)

... Petitioner

Versus

Mohammad Iqbal Shah and others

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Ms. Ravisha Mahajan, Advocate for the petitioner.

VIKAS BAHL, J.(ORAL)

1. This is a Civil Revision Petition filed under Article 227 of the Constitution of India for issuance of an appropriate order or direction for setting aside the impugned order dated 30.01.2024 (Annexure P-9) vide which the defence of the petitioner had been struck off and impugned order dated 04.03.2025 (Annexure P-12) vide which the application for review of the impugned order dated 30.01.2024 had been dismissed.

2. Learned counsel for the petitioner has submitted that in the present case, respondent no.1-plaintiff has interim order dated 15.10.2015 in his favour, inasmuch as, on the first date when the case was taken up, the trial Court had directed the parties to maintain status quo with respect to possession over the suit property till further orders. It is submitted that the said interim order has not been vacated and is continuing till date. It is further submitted that a perusal of the zimni order dated 04.02.2016, which has been shown to the Court during the course of hearing, would show that



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the present petitioner- defendant no.1 had already filed the written statement. The zimni order dated 04.02.2016 is reproduced hereinbelow:-

“Moohammad Iqbal Singh vs. Eid Ghan Kabri

Present: Counsel for plaintiff, Sh.Hardev Singh Adv.

Counsel for defendant no.1, Sh.Khushbir Singh Adv.

Counsel for defendant no.3, Sh.Narinder Singh Adv.

Defendant no.2 ex-parte.

Power of attorney has been filed by Sh.Khushbir Singh on behalf of defendant no.1. Written statement is filed on behalf of defendant no.1. Copy supplied. Now to come up for consideration on stay application for 9.3.2016.

(Navreet Kaur)

CJJD (Asr.)

4.2.2016”

3. It is submitted that the application filed by the petitioner under Order 39 Rule 4 CPC read with Section 151 CPC was dismissed by the trial Court on 05.01.2024 and thereafter the case was fixed for filing reply to the application filed under Order 39 Rules 1 and 2 CPC and thereafter since the reply to the application under Order 39 Rules 1 and 2 CPC was not filed, the impugned order dated 30.01.2024 had been passed. It is submitted that the written statement filed by the petitioner is already on record and the petitioner only prays for one last opportunity to file reply to the application under Order 39 Rules 1 and 2 CPC. It is further submitted that for the inconvenience caused to respondent no.1, the petitioner is ready to pay costs.



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4. Keeping in view the above said facts and circumstances, this Court is of the opinion that one last opportunity should be granted to the petitioner to file reply to the application under Order 39 Rules 1 and 2 CPC and accordingly the present petition is partly allowed and the impugned order dated 30.01.2024 as well as order dated 04.03.2025 to the extent that the evidence of the petitioner –defendant no.1 has been struck of, is set aside and the same would be subject to the petitioner depositing an amount of Rs.25,000/- within a period of one month by moving a separate application and the said amount would be released to plaintiff-respondent no.1. The petitioner would also file reply to the application under Order 39 Rules 1 and 2 CPC in the abovesaid period by moving a separate application before the trial Court.

5. It is made clear that in case the said amount is not deposited, then, the present petition shall be deemed to have been dismissed.

6. In the present case, no notice is being issued to the respondent no.1 as issuance of notice to him would further delay the proceedings and would also entail expenses for the respondent no.1 to defend the present revision petition. However, it would be open to the respondent no.1 to move an application for recalling the present order in case any of the statement made before this Court is found to be false/incorrect.

(VIKAS BAHL)
JUDGE

May 27, 2025.

Davinder Kumar

Whether speaking / reasoned
Whether reportable

Yes/No

Yes/No