

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMPMO No.727 of 2023

Decided on: 29.12.2023

Surender Kumar	... Petitioner.
Versus	
Kunta Devi & another	... Respondents.

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting? Yes

For the petitioner:	Mr. Kulbhushan Khajuria, Advocate.
For the respondents:	None.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, filed under Article 227 of the Constitution of India, the petitioner is seeking setting aside of order 27.12.2022, passed by the Court of learned Senior Civil Judge, Kinnaur, District at Reckong Peo, H.P., in SFR/111/2022, titled as Kunta Devi and another vs. Sh. Sangya Ram and another, in terms whereof right to file written statement of the petitioner/defendant was struck off.

2. Having heard learned counsel for the petitioner and having perused the zimini orders appended with the petition which includes the impugned order, this Court is of the considered view that the prayer of the petitioner cannot be allowed.

3. The defence of the petitioner was struck off by the learned Trial Court on 27.12.2022, i.e. almost twelve months back.

Whether reporters of the local papers may be allowed to see the judgment?

There is no explanation given in the petition as to what took the petitioner one year to assail this order before this Court. The reasoning assigned in Para 6 (B) of the petition that the defence of the petitioner was struck of by the learned Trial Court without appreciating that the defendant had lost his father much prior to filing of the suit is no reasoning in the eyes of law because when the petitioner himself admits that his father died before the institution of the suit, one fails to understand as to how the death of his father was an impediment in his filing the written statement after his service in the civil suit.

4. Therefore, as this Court does not finds any merit in the present petition and further as the petition apparently is nothing but an abuse of the process of law having been filed after one year of the passing of the impugned order, the same is dismissed in limini, so also the pending miscellaneous applications, if any.

(Ajay Mohan Goel)
Judge

December 29, 2023
(Rishi)