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

CR No.2308 of 2015

Date of decision: April 06, 2015

Pankaj and another

.....Petitioners

Versus

Rama

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Jagram Singh Cooner, Advocate
for the petitioners.

SABINA, J

Petitioners have filed this petition challenging the order dated 07.03.2015, whereby evidence of the petitioners, was struck off.

Impugned order reads as under:

“Again written statement and reply to application for grant of interim custody of the child not filed. Adjournment is requested for filing the same which is being highly opposed by the other side. Perusal of file reveals that earlier respondents in the present case were proceeded ex parte vide order dated 05.08.2015 and said order was set-aside on 23.01.2015 subject to payment of Rs.2000/- as costs. Perusal of file further reveals that after availing sufficient opportunities including three last opportunities the respondents have failed to file written statement and reply to the application. Hence, this court finds no other alternative except to striking of defence of the respondent. Order accordingly. Case is adjourned to 03.04.2015 for evidence of the petitioner.”

Learned counsel for the petitioner has submitted that the written statement as well as reply to the application for grant of interim custody of the child were ready and now the case is fixed

before the trial Court for 29.04.2015 and on the said date, petitioners will file the written statement as well as reply to the application for interim custody of the child. Due to inadvertence, the written statement as well as reply to the application could not be filed by the petitioners on the dates fixed. Petitioners are looking after the minor child as the respondent was involved in a criminal case qua the death of her husband.

In the present case, petitioner No.2 is the grand-mother of the minor child in question, whereas the respondent is the mother of the minor child in question. Respondent has filed the petition seeking custody of the minor child. In case, the petitioners who are presently looking after the minor child, are not permitted to file their written statement, they will be unable to put up their defence.

Accordingly, this petition is allowed. Impugned order dated 07.03.2015 is set aside. Petitioners are permitted to file their written statement as well as reply to the application for grant of interim custody of the minor child on 29.04.2015, the date fixed before the trial Court, subject to payment of ₹2,500/- as costs. Costs be deposited with the District Legal Services Authority, Ambala. Thereafter, the trial Court shall proceed further with the case in accordance with law.

**(SABINA)
JUDGE**

April 06, 2015

m.singh