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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.4990 of 2014

Date of Decision: 08.12.2015

ASHOK KUMAR AND ANR

.....Petitioners

Vs

VED PAL AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B.R. Gupta, Advocate
for the petitioners.

Mr. Ajay Ghangas, Advocate
for respondent No.1.

1. *Whether Reporters of local papers may be allowed to see the judgment ?*
2. *To be referred to the Reporters or not ?*
3. *Whether the judgment should be reported in the Digest?*

RAJ MOHAN SINGH, J.(Oral)

[1]. Defendants No.3 and 4 are in revision against the order dated 10.07.2014 (Annexure P-1) passed by Civil Judge (Jr. Divn.) Bahadurgarh, wherein their prayer for filing written statement was declined.

[2]. Defendants No.3 and 4 purchased the suit land during pendency of the suit vide registered sale deed dated 28.01.2009. At the instance of the plaintiff, they were ordered to be impleaded on 06.09.2012 on the strength of **Thomson**

Press Ltd., vs. Nanak Builders and Investors Pvt. Ltd.,
2013(4) LJR 232 (SC).

[3]. Concededly at the time of impleading the petitioners as defendants No.3 and 4, the case was fixed for defendants' evidence. The plaintiff sought amendment of prayer clause in the plaint on 28.03.2013 which was opposed by the petitioners, however amendment was allowed vide order dated 01.08.2013.

[4]. Trial Court dismissed the oral prayer of the petitioners for filing the written statement primarily on the ground that there was inordinate delay in moving the application, besides observing that defence has already been taken by the original defendants in the suit.

[5]. I have heard learned counsel for both the parties.

[6]. Learned counsel for the petitioners submits that once having been impleaded as party defendants in the suit, petitioners have every right to lay foundation in the pleadings and thereafter can lead evidence. In the absence of any written statement they would not be able to establish the plea of *bona fide* purchaser for valuable consideration.

[7]. Learned counsel for the respondent No.1 vehemently contended that since 06.09.2012, till making oral prayer before the trial Court, there was no effort on the part of the petitioners to seek permission to file written statement and, therefore, there

is an inordinate delay which runs counter to the mandatory period of 90 days in filing the written statement.

[8]. I have considered the submissions made at the Bar.

[9]. Since the petitioners have already been allowed to be impleaded as party defendants in the suit, they have contested the suit at different intervals. Even the prayer for filing the written statement was made on 10.07.2014. Even if there is some latch or omission on the part of the petitioners/defendants No.3 and 4, the plaintiffs can be compensated with adequate costs as mandatory period for filing the written statement has been explained in **Salem Advocate Bar Association T.N. vs. Union of India, (2005) 6 SCC 344.**

[10]. Since the petitioners were not the original defendants, they were impleaded at a subsequent stage. The delay, if any though attributable to the conduct of the petitioners, but keeping in view the entire facts and circumstances of the case, it would be just and appropriate to grant one opportunity to the petitioners to file the written statement subject to payment of cost of Rs.10,000/- which shall be paid to the plaintiffs. Payment of cost would be the condition precedent for taking written statement on record.

[11]. Accordingly, both the parties are directed to appear before the trial court on 08.01.2016 and upon their appearance

the trial Court shall fix a date for filing written statement by the petitioners. Only one opportunity is required to be given to the petitioners for filing the written statement and in the event of filing the same, the trial Court shall be obligated to proceed with the case in accordance with law.

[12]. With the aforesaid observation, petition stands disposed of.

December 08, 2015

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**(RAJ MOHAN SINGH)
JUDGE**