

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

CR No.6495 of 2015

Date of decision: 01.10.2015

Davinder Singh & others

...Petitioners

versus

Joginder Singh & others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Achin Gupta, Advocate,
for the petitioners.

RITU BAHRI, J.

Challenge in this petition is to the order dated 16.07.2014 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Faridkot, whereby defence of the judgments debtors-petitioners has been struck off and order dated 31.07.2015 (Annexure P-5), whereby application filed by the petitioners for recalling of the order dated 16.07.2014, has been dismissed.

While passing the order dated 16.07.2014 (Annexure P-1), the trial Court has observed that judgment debtor Nos. 1, 2, 6 and 7 had put in appearance on 01.07.2013, whereas JD No.4 appeared on 29.07.2013 and JD No.3 had put in appearance on 21.12.2013. However, they had chosen not to file reply thereafter. Further perusal of the impugned order(s) shows that on the same date i.e. 16.07.2014, the present application (Annexure P-2) for recalling of the order dated 16.07.2014 and for allowing the judgment debtors to submit reply (Annexure P-3) to the application under Order 21

Rule 32 CPC was filed.

This application has been dismissed on 31.07.2015 (Annexure P-5) by observing that despite availing five opportunities the judgment debtors-petitioners have failed to file reply to the application and hence, their defence has been struck off. Moreover, the power of recalling the order dated 16.07.2014 was with the revisional jurisdiction of this Court.

In view of the fact that the application for recalling the order dated 16.07.2014 had been filed on the same day when the defence of the judgment debtors-petitioners had been struck off, the impugned orders are liable to be set aside.

Accordingly, the orders dated 16.07.2014 and 31.07.2015 are set aside, application (Annexure P-2) is allowed and reply to the application under Order 21 Rule 32 CPC (Annexure P-3) is ordered to be taken on record, subject to costs of Rs.3,000/- to be deposited with the District Legal Service Authority, Faridkot.

Allowed accordingly.

(RITU BAHRI)
JUDGE

01.10.2015
ajp