

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

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**Civil Revision No.7205 of 2015
Date of Decision:02.11.2015**

Ikagar Singh and another

....petitioners

Versus

Balwinder Singh

.....respondent

CORAM: HON'BLE MR.JUSTICE ARUN PALLI

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

Present: Mr.R.D.Bawa, Advocate
for the petitioners

ARUN PALLI, J.(ORAL):-

Vide order being assailed, dated 06.08.2015, rendered by Additional Civil Judge (Senior Divn.), Batala, defence of the petitioners-defendant had since been struck off, for non-filing of the written statement within a stipulated period of 90 days.

Concededly, defendants had caused appearance in the suit filed by the plaintiff on 28.05.2015 and had also moved an application under Order 6 Rule 4 CPC. The matter was adjourned to 10.07.2015, for filing reply to the said application as also for filing the written statement. As on the adjourned date, neither any reply was filed nor the petitioners-defendant filed the written statement, parties were granted last opportunity to do the needful subject to costs of Rs.100/-, though, not specified as to which of the parties was supposed to bear the cost, and the matter was posted for 06.08.2015. On the adjourned date, the Court had passed the following order:

“Written statement not filed despite last

opportunity. Costs also not paid. Stipulated period of 90 days has already expired. Hence, the defence of the defendant stands struck off. Now case is adjourned to 26.09.2015 for evidence of the plaintiff.”

Ex facie, the matter was posted twice for filing reply to the application under Order 6 Rule 4 CPC, as also for filing the written statement. As defendant had failed to file the written statement, despite last opportunity on 06.08.2015, his defence was struck off. Concededly, no reply to the application moved by the petitioners-defendant was either filed on 06.08.2015 or even thereafter. Consequently, the application moved by the petitioners continues to be pending. Resultantly, nothing could be indicated as to whether the application moved by the petitioners-defendant was required to be decided first, before defendant could even be asked to submit their written statement.

Accordingly, without issuing any notice to the respondent, to avert any further delay and the expenses that he shall have to incur to defend these proceedings, the revision petition is accepted. Order dated 06.08.2015 is set aside. Trial Court is directed to proceed in accordance with law. However, it is made clear that in both the eventualities i.e. whether the application moved by the petitioners under Order 6 Rule 4 CPC, is accepted or declined, petitioners shall be afforded only one opportunity to file the written statement failing which their defence shall be deemed to have been struck off.

02.11.2015

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(ARUN PALLI)
JUDGE