

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

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**Civil Revision No.7261 of 2015
Date of Decision:02.11.2015**

Rita Luthra and others

....petitioners

Versus

Anita Goyal and others

.....respondents

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.Mandeep Kumar Dhot, Advocate
for the petitioners

ARUN PALLI, J.(ORAL):-

Vide order being assailed, dated 24.08.2015, rendered by Civil Judge (Senior Divn.), Chandigarh, defence of the petitioners-defendants had since been struck off and they have been restrained from prosecuting their case.

The conclusion arrived at by the trial Court in support of its order reads as thus:

“Heard. In the present case from the perusal of the file, it transpires that the defendants appeared on 27.03.2015 through Sh.Rishi Karan Kakkar and thereafter, the case was adjourned to 30.04.2015 and on 30.04.2015, defendants did not file written statement and the case was adjourned to 21.05.2015 for filing written statement subject to cost of Rs.500/- to be deposited in FLA. Thereafter, on 21.05.2015, written statement was not filed and case was referred to Mediation Centre, on the

request of both the counsel and in the Mediation Centre compromise was not effected as no party appeared in the proceedings and the case was adjourned to 03.08.2015 for filing written statement. On 03.08.2015 again written statement was not filed and case was adjourned to 24.08.2015 i.e. today for filing written statement and today again written statement has not been filed and a new counsel has been engaged by the defendants who seeks an adjournment, which shows the conduct of the defendants that they are not at all interested in filing the written statement and trying each and every method to linger on the method and it is the paramount duty of the court to put restrain on such type of delay tactics and as such the request of the defendants counsel is hereby declined and as per the provisions of Order 8 Rule 10 CPC defendants are hereby restrained from prosecuting their case. Now to come up on 30.10.2015 for plaintiff evidence.”

Ex facie, petitioners-defendants have been remiss and negligent to pursue their cause. But it shall be equally true that in case they are not afforded one last opportunity to file their written statement and put forth their defence, they shall not only suffer an irreparable loss but that might result in miscarriage of justice. As regards the delay and inconvenience caused, plaintiffs could always be compensated by awarding suitable costs.

That being so, the order dated 24.08.2015, is set aside and without issuing any notice to the respondents to avert any further

delay and the expenses that they shall have to incur to defend these proceedings, the petition is disposed of, in the following terms:

1. The petitioners-defendants shall file their written statement within three weeks from today. This, however, shall be subject to payment of costs of ₹ 10,000/-, which shall be condition precedent.
2. In the event of a default, their defence shall be deemed to have been struck off and the trial Court would proceed with the matter from the stage it has already reached.
3. In the event the written statement is filed within the stipulated time, respondents-plaintiffs shall also be granted two weeks' time, thereafter, to file replication, if any.
4. As pointed out by the learned counsel for the petitioners, after passing the order under challenge on 24.08.2015, the matter was posted for recording the plaintiffs evidence for 30.10.2015, but as plaintiffs did not examine any witness on the date fixed, the matter has now been posted for 10.02.2016. That being so, the trial Court shall permit the parties to complete their pleadings, as indicated above, before the date already fixed i.e.10.02.2016 and proceed with the matter.

02.11.2015

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(ARUN PALLI)
JUDGE