

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

-.-

CR 1309 of 2016
Date of decision: 23.02.2016

Dalip Singh and others

..... Petitioners

Versus

Paramjit Kaur and others

..... Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Harpreet Singh Jakhal, Advocate
for the petitioners

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

Rekha Mittal, J. (Oral)

The present petition lays challenge to the order dated 07.01.2016 (Annexure P5) passed by the Civil Judge (Senior Division) Fazilka whereby defence of the petitioners/defendants has been struck off for want of filing of the written statement.

Counsel for the petitioners contends that as the suit is pending for service of respondent No. 7 and is fixed for 12.04.2016 for the said purpose, the trial Court should have allowed another opportunity to the petitioners to file their written statement as non-filing of the written statement on 07.01.2016 has not in any manner delayed progress of the proceedings.

Perusal of the impugned order would reveal that the learned

trial Court struck off defence of the petitioners despite the fact that the case was adjourned to 11.02.2016 for service of defendant No. 7 and that has now been adjourned to 12.04.2016 for the said purpose. That being so, the petitioners should have been provided another opportunity to file the written statement in place of striking off defence which has serious repercussions for the petitioners to defend claim of the respondents/plaintiffs. In the given circumstances of the case, the impugned order dated 07.01.2016 is set aside to the extent of striking off defence of the petitioners with liberty to the petitioners to file the written statement on or before 12.04.2016, subject to deposit of Rs.25,00.00 with the Legal Services Authority, Fazilka. In case, the petitioners fail to file the written statement in compliance with the directions issued by the Court, the order dated 07.01.2016 would come into operation in regard to striking off their defence.

Disposed of accordingly.

(Rekha Mittal)
Judge

23.02.2016
mohan bimbura