

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

-.-

Civil Revision Petition 1878 of 2016
Date of decision: 14.03.2016

Ramji Nath and another

..... Petitioners

Versus

Kuldeep Singh

.....Respondent

Coram: Hon'ble Mrs. Justice Rekha Mittal

-.-

Present: Mr. Karanjit Singh Brar, Advocate
for the petitioners

-.-

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 has been directed against the order dated 27.01.2016 (Annexure P1) whereby defence of the petitioners has been struck off for want of filing of the written statement within 90 days.

Counsel for the petitioners would contend that the petitioners are rustic villagers and unaware of the intricacies of legal provisions, thus rendered hapless and being at the mercy of a Lawyer engaged by them before the trial Court. The provisions in regard to filing of the written statement within 90 days from the date of appearance are not mandatory but directory in nature. A serious prejudice would be caused to the petitioners in case they are not allowed to put forth their defence to contest the suit for specific performance filed by the respondent/plaintiff. The petitioner would

file their written statement on the next date fixed by the trial Court in case, one opportunity is provided to them for the purpose and they would also deposit costs imposed by the trial Court.

I have heard counsel for the petitioners and perused the records.

It is an unfortunate situation that failure of the petitioners to file the written statement within a period of 90 days has compelled them to rush to this Court by filing the present revision petition. It is not sure if default in regard to failure to file the written statement can be attributed to the petitioners or to their counsel before the trial Court. However, it remains a fact that the petitioners would suffer substantially in case they are not permitted to put forth their defence to contest the proceedings initiated by the respondent/plaintiff. Keeping in view the principles of natural justice, the petition stands disposed of by providing one opportunity to the petitioners to file their written statement before the trial Court on the next date fixed in the proceedings subject to payment of costs imposed by the trial Court.

It is pertinent to mention here that the petition is disposed of without notice to the respondent in order to save him from unnecessary expenses and inconvenience. However, the respondent would be at liberty to file an appropriate application in case he has any grievance to express.

(Rekha Mittal)
Judge

14.03.2016
mohan bimbura