

In the High Court of Punjab and Haryana at Chandigarh

Civil Revision No. 4789 of 2016

Date of Decision: 28.7.2016

Baldev Singh and another

---Petitioners

versus

Rakesh Kumr and others

---Respondents

Coram: Hon'ble Mrs. Justice Rekha Mittal

**Present: Mr. Krishan Singh, 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.

The present petition has been directed against order dated 30.5.2016 (Annexure P-2) passed by the Civil Judge (Junior Division), Naraingarh whereby defence of petitioners Baldev Singh and Smt. Jeeto Devi defendant Nos. 1 and 3 respectively in the suit has been ordered to be struck off for want of filing of written statement.

Counsel for the petitioners would contend that as the trial court

adjourned the case, for filing of written statement by defendant Nos. 2 and 4, to 27.8.2016, the Court should have allowed another opportunity to the petitioners as well to file the written statement on the adjourned date. It is further submitted that the petitioners would positively file the written statement on or before 27.8.2016 in case, they are provided an opportunity for the purpose.

I have heard counsel for the petitioners, perused the paper book particularly the order impugned.

A perusal of the impugned order would make it evident that the trial court despite having adjourned the case for filing of reply to the application under Order 7 Rule 11 of the Code of Civil Procedure (in short “CPC”) and written statement on behalf of defendant nos. 2 and 4 has passed an adverse order against the petitioners striking off their defence for want of filing of written statement within the stipulated period. Provisions of Order 8 Rule 1 CPC are directory and not mandatory in nature as has been held by Hon'ble the Supreme Court in ***Salem Advocate Bar Association, Tamil Nadu vs. Union of India 2005(3)RCR(Civil) 530***. In the given facts and circumstances, it is expedient in the interest of justice that the petitioners are permitted to file the written

statement on or before 27.8.2016, the date already fixed before the trial court for filing of written statement by defendant Nos. 2 and 4.

In view of what has been discussed hereinabove, the petition is allowed in the aforesaid terms but subject to payment of costs of Rs. 2000/- to be deposited with the Legal Services Authority, Naraingarh.

Before parting with the order, it is clarified that the petition has been disposed of without notice to the respondent/plaintiff in order to avoid inconvenience and incurring expenditure by him. However, if the respondent/plaintiff has any grievance to express, he shall be at liberty to file an appropriate application before this Court.

(Rekha Mittal)
Judge

28.7.2016

PARAMJIT

Whether speaking/reasoned : yes/no

Whether reportable : yes/no