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

**CR No.1375 of 2017 (O&M)
Date of Decision : 08.09.2017**

**MAHESH BATRA (DECEASED) THR. HIS LRS LAKSHYA
BATRA AND ANOTHER**

....PETITIONERS

VERSUS

NARINDER SINGH AND OTHERS

....RESPONDENTS

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr.Amandeep Singh, Advocate for
Mr. Dawaljeet Dutta, Advocate
for the petitioners.

RAMESHWAR SINGH MALIK, JUDGE (ORAL)

Feeling aggrieved against the impugned order dated 19.01.2017, passed by the learned trial Court, whereby defence of the respondents in the ejectment petition was struck off, they have approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Service on the respondents was effected.

Shri Chetan Bansal, Advocate put appearance on behalf of the respondents on 05.05.2017 and sought time to get instructions before addressing his arguments. However, today neither anybody has come present on behalf of the contesting respondents to oppose the instant civil revision petition nor any request for pass over has been made.

Heard learned counsel for the petitioners.

Learned counsel for the petitioners, on the very outset, fairly states that although the petitioners ought to have been more careful and vigilant to file the written statement in time, yet in the totality of the facts and circumstances of the case, recorded in the notice of motion order dated 27.02.2017, petitioners deserve to be granted one more opportunity to file the written statement, so as to avoid miscarriage of justice.

The contention raised by learned counsel for the petitioners has been found to be well justified and worth acceptance. It is so said because since father of the petitioners fell seriously ill and later on he passed away on 28.12.2016, the circumstances were beyond the control of the petitioners to file their written statement in time. Having said that, this Court feels no hesitation to conclude that since the learned trial Court could not appreciate the abovesaid actual aspect of the matter before passing the impugned order, manifest injustice has been caused to the petitioners.

Further, granting one more opportunity to the petitioners shall not cause any prejudice to the respondents because the ejectment petition is pending at the initial stage. On the other hand, denying an opportunity to the petitioners to file the written statement will cause an irreparable loss to them. Under these circumstances and also to avoid miscarriage of justice, petitioners deserve to be granted one more opportunity to file the written statement.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the view that since the learned trial Court failed to appreciate the genuine

difficulty of the petitioners for not filing the written statement in time, the impugned order has been found suffering from patent illegality and the same cannot be sustained.

Accordingly, the impugned order dated 19.01.2017, so far as it pertains to striking of the defence of the petitioners is concerned, the same is hereby set aside. The learned Rent Controller is directed to grant one more opportunity to the petitioners to file their written statement, thereafter, the learned Court below shall proceed further with the matter to decide the same in consonance with law.

Resultantly, with the abovesaid observations made and directions issued, the present revision petition stands allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

September 08, 2017

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Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No