

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

273

CR-1497-2017

Date of Decision:10.05.2017

Gurwinder Kaur & another

.....Petitioners

Versus

Balwinder Singh and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAMESHWAR SINGH MALIK.

Present: Mr.I.S.Dhaliwal, Advocate,
for the petitioners.

Mr.Kulbir Singh Sekhon, Advocate,
for respondent No.1.

Mr.B.S.Sra, Addl. A.G., Punjab,
for respondent Nos.2 to 5.

RAMESHWAR SINGH MALIK, J.(Oral)

Defendant Nos.4 and 5 have approached this Court by way of present revision petition, filed under Article 227 of the Constitution of India, against the order dated 18.11.2016 passed by the learned trial Court, whereby the defence of the petitioners was struck off as they did not file the written statement.

Notice of motion was issued.

Heard learned counsel for the parties.

A bare perusal of the impugned order would show that the petitioners were not vigilant enough to pursue their cause before the learned trial Court. More than one opportunities were granted to them to file their written statement but they failed to avail those opportunities. No written statement was filed. No justified reason was forthcoming. Learned counsel

for the petitioners submits that in fact petitioner No.1 was not feeling well

because of which, she could not file written statement in time. He further submits that on payment of reasonable costs, only one more opportunity may be granted to the petitioners to file the written statement so as to avoid serious prejudice to them. Learned counsel for the respondents vehemently opposed and sought dismissal of this revision petition.

Having heard the learned counsel for the parties at considerable length, after going through record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that in the interest of justice, one more opportunity deserves to be granted to the petitioners, however, subject to payment of reasonable costs.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Courts of law must make an endeavour to grant sufficient opportunity to both the parties to the litigation to put-up their best case before the Court. Nobody should be forced to go home with the grievance that reasonable opportunity was not granted. While following the abovesaid principle of law, the learned Court shall achieve twin objects; namely, (i) it would avoid multiplicity of litigation between the parties and (ii) the learned Court will be in a much better position to do complete and substantial justice between the parties. However, in the present case, the learned trial Court failed to follow the abovesaid principle of law, while passing the impugned order and the same cannot be sustained, for this reason also.

Keeping in view the totality of facts and circumstances of the case, petitioners are granted one more opportunity to file their written statement, subject to payment of costs of ₹5,000/- which shall be paid by them to the plaintiff on the next date of hearing before the learned trial

Court. It is also made clear that if the petitioners are still unable to file the written statement after availing one more effective opportunity, thereafter they shall not be entitled to any further indulgence by the learned trial Court, in this regard.

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 considered view that since the impugned order has been found suffering from patent illegality and perversity, it cannot be upheld. Accordingly, impugned order 18.11.2016 is hereby set aside. Present revision petition deserves to be accepted.

Resultantly, with the above-said observations made and directions issued, instant revision petition stands allowed, however, with no order as to costs.

May 10, 2017
seema

(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No