

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

CR No.3187 of 2016
Date of decision :04.10.2017

Ajay Bhardwaj and another

...Petitioners

Versus

Jyotsna and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S. Matya, Advocate
for petitioners.

ANIL KSHETARPAL, J. (Oral)

In this case, notice of motion was issued. However, as per office report, respondents were not found residing at the given address.

Since matter in issue is small and can be disposed of even in absence of the plaintiffs-respondents, therefore, I have taken up this case for final disposal.

Application filed by the defendant for permission to amend the written statement was allowed by the impugned order. The case was adjourned for filing amended written statement, however, amended written statement was not filed with the prescribed time. Defendant in the meantime changed his counsel. New counsel filed 'Vakalatnama' and sought adjournment. The Court struck off the defence of the defendant on the ground that more than 90 days have expired. Such an order is wholly uncalled for. Defence of the defendants could not be struck off on this ground and at most the opportunity of the defendants to file amended written statement could be closed.

Since the application for amendment of the written statement

has already been allowed and defendants undertake to file the amended

written statement on or before 11.10.2017, which is stated to be next date before the trial Court, therefore, in the interest of justice, defendants are granted one opportunity to file the amended written statement.

However, this opportunity would be subject to payment of cost of Rs.10,000/- payable to the plaintiff.

Since I have passed the order without hearing the other side, the plaintiffs would be at liberty to move an application for recall of the same, if they are so advised.

Hence, this present revision petition is allowed and impugned order is set aside.

04.10.2017
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(ANIL KSHETARPAL)
JUDGE

Whether Speaking/reasoned : Yes
Whether Reportable : No