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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No.121

CR No.3381 of 2017 (O&M)
DECIDED ON: *May 10, 2017*

STATE OF PUNJAB AND ORS.

..PETITIONERS

VERSUS

BALDEV SINGH AND ORS.

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Mr. B.S. Cheema, Deputy Advocate General, Punjab,
for the petitioners.

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JASPAL SINGH, J. (ORAL)

CM No.10617-CII of 2017

Application is allowed as prayed for.

CR No.3381 of 2017

By virtue of the instant revision petition preferred under Article 227 of the Constitution of India, petitioners have sought the setting aside of impugned order dated December 07, 2016 (Annexure P-3) passed by the learned Additional Civil Judge (Sr. Divn.) Abohar whereby the defence of the petitioners/defendants was struck off as well as order dated February 09,

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2017, whereby an application for recalling the order dated December 07, 2016 seeking grant of one opportunity to the petitioners/defendants to file the written statement has been dismissed.

2. The contention of the learned State counsel is that after receipt of notice in the instant case, the draft of written statement as well as reply to stay application was prepared, which was approved by the Departmental Authorities and submitted for vetting before the Assistant District Attorney Abohar, which was vetted by him on November 22, 2016. Thereafter, as per the Government instructions, the reply was submitted to the office of District Attorney, Fazilka, after requisite legal formalities. The written statement as well as reply to stay application was vetted on December 07, 2016 by the office of District Attorney, Fazilka. On the same day, the court was pleased to pass the order, whereby the defence of the petitioners/defendants was struck off. From the explanation furnished by the learned State counsel, it is evident that the filing of written statement within the prescribed period was beyond the control of the petitioners/defendants and it occurred only due to the lengthy procedure to be adopted for filing the written statement. However, learned State counsel has submitted that the written statement as well as reply to stay application has already been vetted by the concerned authorities and is ready to be furnished/filed in the concerned court in case one opportunity afforded to the petitioners/defendants for filing the same after setting aside the impugned order.

3. Without expressing any opinion on the merits of the impugned order, the same is set aside with direction to the trial court to afford one effective opportunity to file the written statement as well as reply to stay

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application by the petitioners/defendants and then to proceed with suit in accordance with law.

4. With aforesaid direction, instant petition stands disposed of.

5. Since, the order is being passed in the absence of the respondents-plaintiffs, they shall be at liberty to approach this court, in case, they feel aggrieved of this order. .

May 10, 2017 **(JASPAL SINGH)**
Ankur **JUDGE**

Whether speaking/reasoned **Yes/No**

Whether reportable **Yes/No**