

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

CR-466-2017

Date of decision: 23.1.2017

Satnam Singh and another

...Petitioners

Versus

Gurnam Singh and others

...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.GS Nagra, Advocate for the petitioners

SNEH PRASHAR, J.

The present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 24.10.2016 (Annexure P-6) and order dated 11.7.2016 passed by learned Civil Judge (Junior Division), Ajnala vide which the defence of the petitioners -defendants No.2 and 3 was struck off.

The submissions made by Mr.GS Nagra, Advocate representing the petitioners have been considered.

The plaintiff – respondent No.1 had filed a suit for joint possession to the extent of 1/8th share out of the total land measuring 80 kanals 4 marlas situated in the revenue estate of village Chak

Kamal Khan, Tehsil Ajnala, District Amritsar. Learned counsel for

the petitioners submits that the case was fixed for filing written statement on behalf of the petitioners but before that their father Santokh Singh -defendant No.1 died and an application for impleading them (petitioners) as legal representatives of the said deceased was filed, but in that process the defence of the petitioner has been struck off. Learned counsel asserts that the delay in filing of the written statement was neither intentional nor deliberate. Submitting that non-filing of the written statement will cause irreparable loss to the petitioners, learned counsel prayed that just one more opportunity be granted to file the same.

Indeed, absence of pleadings on part of the petitioners-defendants will leave no scope for them to put up their defence and contest the suit. The case is still at the initial stage. In my considered opinion, grant on one last opportunity to the petitioners-defendants to file their written statement will cause no prejudice to the rights of the respondents-plaintiffs as they have yet to start with their evidence. Proper pleadings and evidence adduced by both the parties will also help the trial Court to better appreciate the issues involved and render substantial justice to the parties.

The above order is passed without issuing notice to the opposite party in order to avoid unnecessary delay in trial of the case.

Resultantly, the present revision petition is allowed. The

orders dated 24.10.2016 and 11.7.2016 are set aside and the learned trial Court is directed to grant one effective opportunity to the petitioners-defendants to file the written statement subject to deposit of Rs.5000/- as cost with the District legal Services Authority, Amritsar.

However, it is made clear that if the petitioners -defendants fail to file written statement on the date so fixed by learned trial Court, no further opportunity shall be granted to them.

Since, the main petition has been allowed, the miscellaneous application is also disposed of accordingly.

23.1.2017
gsv

(SNEH PRASHAR)
JUDGE

Whether speaking / reasoned?
Whether reportable?

Yes / No
Yes / No