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

**Civil Revision No.4940 of 2017
Date of Decision: 03.11.2017**

BALWINDER SINGH AND ORS.

.....Petitioners

Vs

SANATAN DHARAM SABHA AND ORS.

....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Ashok Aggarwal, Advocate
for the petitioners.

Mr. V.K. Sandhir, Advocate
for respondents No.1 to 3.

RAJ MOHAN SINGH, J. (Oral)

[1]. Learned counsel for the petitioners submitted that respondents No.1 to 3 are the only contesting respondents and service *qua* other respondents be dispensed with. Ordered accordingly.

[2]. Brief facts are that the plaintiffs filed a suit under Section 92 CPC by impleading 23 defendants. Petitioners herein were arrayed as defendants No.1 to 3 and 5. Defendants/petitioners appeared before the trial Court through their counsel on 13.05.2016 and the counsel filed

memorandum of appearance on their behalf. Service was incomplete *qua* other defendants and the case was adjourned for 25.05.2016. Fresh notices were issued to the unserved defendants No.14, 17 and 23. The case was adjourned for 31.05.2016 and further adjourned to 21.07.2016, when the plaintiffs filed an application under Order 5 Rule 20 CPC for service of defendants No.14 and 17 by means of *munadi* and affixation. On the adjourned date i.e. 12.08.2016, defendant No.14 appeared, but defendant No.17 remained absent. Defendant No.17 was proceeded against *ex parte* and the case was adjourned for 19.09.2016. On the adjourned date the impugned order came to be passed.

[3]. Learned counsel for the petitioners admitted the factual position inasmuch as that the petitioners had the liberty to file the written statement during the intervening period, but according to learned counsel for the petitioners, petitioners remained under the *bona fide* impression that since some of the defendants were unserved, therefore, they will be in position to file the written statement at subsequent stage as well.

[4]. Learned counsel for respondents No.1 to 3 however opposed the prayer by contending that the written statement was not filed within a period of 90 days and, therefore, the petitioners were not entitled to any indulgence.

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. Since service remained pending *qua* some of the defendants and they were proceeded in the manner as stated in preceding part of the order, I deem it appropriate to grant indulgence for one opportunity to be given to the petitioners for filing the written statement.

[7]. In view of above, impugned order dated 19.09.2016 passed by the Addl. District Judge, Amritsar is set aside and the revision petition is allowed. The trial Court shall fix a date for filing of the written statement by the defendants/petitioners, however subject to payment of cost of Rs.15,000/- to be paid to respondents No.1 to 3 in equal proportions. Payment of cost shall be the condition precedent for granting indulgence by the trial Court.

November 03, 2017

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Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No