

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

CR No.5668 of 2017(O&M)
Date of Decision: 24.08.2017

Devender and others ...Petitioners

Versus

Braham Dutt and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

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Present: - Ms. Deepa Jain, Advocate
for the petitioners.

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HARINDER SINGH SIDHU, J.

This revision petition has been filed impugning the order dated 08.05.2017 (Annexure P-3), whereby, the defence of the defendants-petitioners has been ordered to be struck off for failure to file written statement.

The respondents filed an application under Order 39 Rule 2-A of the Code of Civil Procedure for initiating contempt proceedings against the petitioners for violation of order dated 28.09.2016 of the Court directing that status quo regarding possession of the suit property be maintained. Ld. Counsel for the petitioners states that after issuance of notice, the petitioners filed memo of appearance on 02.02.2017 and the case was adjourned to 09.03.2017 for filing reply as well as *vakalatnama*. On 09.03.2017 *Vakalatnama* was filed and the matter was adjourned to 26.04.2017 for filing reply on behalf of the respondents. On 26.04.2017 reply could not be filed and an adjournment was sought. While granting last opportunity to file reply,

not be filed, the case was adjourned to 08.05.2017 with last opportunity. On 08.05.2017 when once again adjournment was sought for filing the written statement, the case was initially ordered to be taken up after lunch for filing written statement. Once again, a request was made for adjournment to enable the petitioners to file written statement, which was declined and the defence of the petitioners was ordered to be struck off.

Learned counsel for the petitioners contends that there has been no unnecessary delay on the part of the petitioners in filing the reply. They had put in appearance on 02.02.2017 and the defence was struck off on May 08.05.2017. She argued that there were genuine difficulties, because of which the counsel for the petitioners could not be present and adjournment to file reply was sought. She argued that the petitioners would be gravely prejudiced, if they are not permitted to file written statement.

Considering the facts and circumstances of the case, in my view it would subserve the ends of justice if the petitioners are granted one opportunity to file the written statement.

Accordingly, the revision petition is allowed. The order dated 08.05.2017 (Annexure P-3) is set aside. The Ld. Trial Court is directed to permit the petitioner-defendants to file written statement and to contest the application. The petitioners-defendants may be allowed to file written statement within one month from today, subject to payment of Rs.10,000/- as compensatory costs to the plaintiff- respondents.

August 24, 2017
Atul

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/ reasoned:
Whether Reportable:

Yes/No
Yes/No