

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No.1084 of 2018
Date of Decision: 16.02.2018

State of Haryana & another

....Petitioner (s)

Versus

Dhani Ram & others

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. R.K. Singla, AAG, Haryana.
for the petitioner(s).

HARI PAL VERMA, J. (Oral)

Petitioners have filed the present revision petition under Article 227 of the Constitution of India for setting aside the order dated 14.02.2017 (Annexure P-2) passed by Civil Judge (Jr. Division), Gurugram, whereby the defence of the petitioner-defendants was struck off for not filing the written statement within the statutory period of 90 days.

Learned counsel for the petitioners has argued that the petitioner-defendants no.1 and 2 could not file their written statement within the statutory period of 90 days for the reason that complete record of the case could not be arranged in time so as to prepare the written statement and to file the same in Civil Court. He has further argued that even the plaintiff-respondents have also not supplied the complete set of paper book

of the case to them, which further supplemented the cause for not filing the written statement within aforesaid statutory period of 90 days.

I have heard learned counsel for the petitioners and perused the impugned order dated 14.02.2017 (Annexure P-2) passed by Civil Judge (Jr. Division), Gurugram, which reads as under:-

“Today the case was fixed for filing of written statement on behalf of defendants no.1 and 2. Written statement not filed. Perusal of file shows that defendants no.1 and 2 have appeared on 25.06.2016. Statutory period of 90 days has been expired but written statement has not been filed by the defendants no.1 and 2. Order 8 Rule 1 CPC mandates the defendants no.1 and 2 to file the written statement within a period of 90 days from the date of service of summons. As more than 90 days has expired but no written statement have been filed by the defendants no.1 and 2. Hence, defence of defendants no.1 and 2 are struck off. Now, to come up on 30.03.2017 for evidence of the plaintiff to be produced at own responsibility.”

Though in the impugned order dated 14.02.2017 (Annexure P-2), it has been mentioned that defendants no.1 and 2 have appeared on 25.06.2016, but a perusal of zimni order, as available on the office website, shows that the defendants no.1 and 2 have in fact put in appearance on 26.08.2016. Since the civil suit, which was filed on 08.07.2016, was directed against the State of Haryana through Collector, Haryana, Gurgaon and PWD (B&R Deptt.) through its SDE Gurgaon, there were certain formalities to be carried out by the department, which include issuance of sanction order by the Governor of Haryana. Even otherwise, it is not the case of either of the parties that written statement has not been filed after an

inordinate delay. The case is at an initial stage and therefore, this Court finds that no serious prejudice is going to be caused to the respondent-plaintiffs. Therefore, the petitioners deserve one more opportunity to file their written statement, however, subject to payment of costs, so that plaintiffs can be compensated.

Accordingly, the present revision petition is allowed. The order dated 14.02.2017 (Annexure P-2) is set aside, however, with a direction that the petitioners be afforded one more opportunity to file their written statement, subject to payment of costs of Rs.5,000/-, which shall be paid the respondent-plaintiffs.

The present petition has been disposed of without issuance any notice to the respondents for the reason that in case notice is issued to the respondent-plaintiffs, it will further delay the proceedings. Still, in case the respondent-plaintiffs feel prejudice by this order, they are at liberty to file an application for recalling of this order.

February 16, 2018
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No