

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

CR No.3676 of 2017

Date of decision:11.01.2018

M/s Devi Chand Ishwar Chand and another ... Petitioners

Vs.

Haryana Agro Industries ... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Saurabh Garg, Advocate
for the petitioners.

AMIT RAWAL J. (Oral)

Challenge in the present revision petition is to the order dated 11.04.2017 (Annexure P-5) rendered by the Additional Civil Judge (Senior Division), Kaithal allowing the application moved by the defendant to file the written statement.

Learned counsel for the petitioners submits that suit at the instance of the petitioner-plaintiffs seeking recovery of ₹4,80,000/- including principal amount of ₹4,46,616/- and ₹33,384/- as interest thereon, was filed but the defendant did not file a written statement. The matter was listed for 05.08.2015 and defence of the defendant was struck off due to non-filing of written statement. Resultantly, the case was adjourned to 07.10.2015 and not for 26.08.2015. The application moved on behalf of the defendant-respondent for placing on record written statement, was not maintainable, the remedy, if any was to challenge the order striking off the defence.

I have heard learned counsel for the petitioner-plaintiffs and appraised the paper book.

On perusal of the impugned order, it is evident that no doubt, the matter was adjourned to 07.10.2015 but both the parties appeared on 26.08.2015 as they have noted the date as 26.08.2015 and not 07.10.2015.

Keeping in view the aforementioned fact, the Court below by applying maxim “*Actus Curiae Meminem Gravabit*” which says the act of the Court shall prejudice no-one, had granted the opportunity to the respondent-defendant to file a written statement.

I am of the view that the view expressed by the trial Court does not fall within the realm of exercising the powers under Article 227 of the Constitution of India.

Accordingly, the revision petition stands dismissed.

(AMIT RAWAL)
JUDGE

January 11, 2018
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No