

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

CR No.4519 of 2017

Date of Decision: January 23, 2018

Gurdev Singh and another

..... Petitioners

Versus

Karnail Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Surinder Thakur, Advocate
for the petitioners.

Mr. S. S. Hira, Advocate
for the respondent.

AMIT RAWAL J. (ORAL)

As per the notice of motion order dated 13.07.2017, the petitioner has deposited the cost of Rs.5000/-.

The petitioners-defendants are aggrieved of the order dated 25.01.2017, whereby their defence for non-filing the written statement, has been struck off.

Learned counsel for the petitioners expresses remorse on the part of the defendants in not paying the cost in spite of various opportunities. It is submitted that he has already filed the written statement, which is taken on record earlier on 07.01.2015 i.e. after the expiry of 90 days as prescribed under Order 8 Rule 1 CPC.

On the contrary Mr. S. S. Hira, Advocate appearing on behalf of the respondent submits that the petitioners-defendants have adopted all delay tactics in not filing the written statement and rightly so their

defence was struck off. Defendants were aware of the fact that the written statement was to be filed within the prescribed period under Order 8 Rule 1 CPC and thus urges this Court for dismissal of the present revision petition.

I have heard learned counsel for the parties and appraised the paper book.

Noticing the fact that the petitioners-defendants had taken many adjournments for filing written statement, which is reflected in the reply as well as from the impugned order, the petitioners-defendants does not require any concession of opportunity but yet in order to advance and prevent miscarriage of justice, I deem it appropriate to set aside the impugned order. Once the written statement has filed and already on record, the trial Court is directed to taken it into consideration. Subject of Rs.5000/- cost which as per the order dated 13.07.2017, already deposited is ordered to be disbursed to the respondent either himself or through the counsel in the High Court.

The present petition stands allowed.

(AMIT RAWAL)
JUDGE

January 23, 2018

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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No