

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No. 6387 OF 2018(O&M)
Date of decision: 21.09.2018

Vijay Kumari and another	... Petitioners
vs.	
Pardeep Sharma and others	.. Respondents

Coram: Hon'ble Mr. Justice Harinder Singh Sidhu

Present:- Mr. Munish Bhardwaj, Advocate
for the petitioners.

Harinder Singh Sidhu, J.

The petitioners herein are the defendants No. 16 and 18 in the civil suit filed by respondent No.1. They are aggrieved against the order dated 08.08.2018 whereby their defence was struck off for failure to file the written statement. In the impugned order, it has been recorded that vide order dated 01.04.2015 defendants No. 16 to 18 had been proceeded against ex-parte. They moved an application for setting aside the order, which was allowed on 28.05.2018. Thereafter, defendants No. 16 to 18 were granted four opportunities to file the written statements. Vide order dated 25.07.2018 last opportunity was granted to defendants No. 16 to 18 subject to payment of Rs.2000/- as costs. It was also made clear that on failure to file the written statement, defence of defendant nos. 16 to 18 would be struck off. Despite that, defendants No.16 to 18 had neither filed written statement nor paid the costs. In view thereof, the impugned order was passed.

Learned counsel for the petitioners states that they failed to file the written statement on account of the the death of their sister under mysterious circumstances. The failure to file the written statement was not intentional. He argued that if the petitioners are not permitted to file written

statement and their defence remains struck off they would suffer serious prejudice. He states that the case is listed before the trial Court on 24.09.2018 for evidence of the defendants. He prays that only one opportunity to file the written statement be granted.

Considering the facts and circumstances of the case, this petition is allowed. The impugned order dated 08.08.2018 to the extent of striking off the defence of the petitioners is set aside. The trial Court may grant one opportunity to the petitioners to file their written statement on or before 24.09.2018. This shall be subject to payment of Rs.20,000/- as costs to the plaintiff.

This revision petition has been disposed of without notice to the respondents to avoid unnecessary delay and expenses. However, if the respondents have any grievance, they are at liberty to approach this Court for re-calling this order.

A copy of this order be given to learned counsel for the petitioners under the signatures of the Special Secretary of this Bench.

21.09.2018
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(Harinder Singh Sidhu)
Judge

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No