

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

CR No.7072 of 2017 (O&M)

Date of decision : 23.02.2018

Kanshi Ram @ Jagdish and another

...Petitioners

Versus

Kamla Rani and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Hemender Goswami, Advocate for the petitioners.

ANIL KSHETARPAL, J. (ORAL)

The defendants-petitioners are in the revision petition against the order striking off their defence and closing the evidence on the ground that the defendants have failed to pay the cost of adjournment which was imposed on 30.10.2014.

On 30.10.2014, the case was adjourned to 28.11.2014 and the cost was imposed for grant of an adjournment as the plaintiffs wanted that the defendants be directed to produce certain documents.

It is not in dispute that thereafter the case was fixed for evidence and the plaintiffs as well as the defendants led their evidence. It may be noticed that during the proceedings for almost 3 years, the payment of cost was never insisted upon. However, the learned trial Court, on the basis of the application filed by the plaintiffs in the year 2017 struck off the defence.

In this case, on 16.11.2017, notice of motion was issued to the respondents. However, no one has put in appearance on behalf of the respondents. It is undisputed that from the year 2014 onwards, the learned trial Court proceeded with the case and never took any action on account of non-payment of the cost.

In the considered opinion of this Court at this stage when the plaintiffs and the defendants have led their evidence, the Court could not strike off the defence of the defendants on ground of non-payment of cost imposed in the year 2014 particularly when the trial of the suit has made substantial progress in the meantime. Anyhow, learned counsel for the defendants-petitioners undertake to pay the cost.

In view thereof, the order under challenge is set aside.

While issuing notice of motion, this Court had directed the petitioners to deposit ₹25,000/- with the Registry of this Court.

Counsel for the petitioners submits that the amount has been deposited by way of demand draft which is with the Registrar.

Let the Registrar remit the aforesaid draft to the trial Court.

In view of the above, the revision petition is allowed, subject to the payment of costs of ₹10,000/-.

23.02.2018

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No