

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 106

CR-7528-2017

Date of decision : 23.10.2018

Jagdeep Singh @ Jagdish Singh
and another

..... Petitioners

VERSUS

Charanjit Singh

..... Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Satbir Rathore, Advocate, for the petitioners.

Mr. Vikas Singh, Advocate, for the respondent.

DEEPAK SIBAL, J. (ORAL)

The present petition is directed against the order dated 06.10.2017, passed by the Additional Civil Judge (Senior Division), Nihal Singh Wala (for short, the Trial Court), through which the petitioners' defence has been struck off for having not filed their written statement within a period of ninety days after having caused appearance.

The facts in brief which are required to be noticed for adjudicating upon the present petition are that the respondent filed a suit seeking therein permanent injunction to restrain the petitioners, who are the defendants in the suit, from interfering in his peaceful possession over the house detailed and described in the headnote of the plaint (for short, the suit property). The petitioners were also sought to be restrained from ejecting/dispossessing the respondent from the suit property without taking recourse to law as also from alienating the suit property. Notice of the suit was served upon the petitioners in Canada in pursuance to which on 26.05.2017 their counsel put in appearance before the Trial Court.

Thereafter, the matter was adjourned on five occasions and when on these dates no written statement was filed on behalf of the petitioners, the Trial Court struck off their defence through the order which is under challenge in the present proceedings.

Learned counsel for the petitioners submits that out of the five dates granted by the Trial Court to enable the petitioners to file their written statement on one date the local Bar was on strike and on other four dates since the petitioners were in Canada, they sent a Special Power of Attorney (SPA) in favour of one Mr. Paramjit Singh to pursue the present litigation but on this SPA initially there were some objections raised by the office of the Deputy Commissioner and by the time such objections were cleared the impugned order had been passed.

Learned counsel for the respondent submits that the reasons given by the petitioners for not filing their written statement in time are vague as no details have been given as to what objections were raised by the office of the Deputy Commissioner with regard to the so called defects in the SPA sent by the petitioners in favour of Mr. Paramjit Singh. It is further submitted that there is laxity on the part of the petitioners in sending of the SPA as they were admittedly served in the suit prior to 26.05.2017 but they executed the SPA after two months thereof. It is still further submitted that after the objections had been raised by the office of the Deputy Commissioner the petitioners took about two months to execute the second SPA.

In the peculiar facts of the present case where the petitioners are residing in Canada and were communicating with their counsel from there

and in line with the principles of natural justice as also not to preclude the petitioners from putting forth their defence at the initial stage of the trial, subject to payment of ₹20,000/- as costs, to be paid by the petitioners to the respondent, I consider is just and proper to set aside the impugned order and grant to the petitioners three weeks time from today to file their written statement before the Trial Court.

The present petition is allowed in the above terms.

23.10.2018
shamsher

[DEEPAK SIBAL]
JUDGE

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