

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

108

**CR No.6972 of 2019(O&M)
Date of Decision: 21.11.2019**

SUKHWINDER SINGH AND ORS

.....Petitioners

Versus

GURBACHAN SINGH AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.B.B.S.Randhawa, Advocate
for the petitioners.

RAJ MOHAN SINGH, J.(Oral)

Petitioners have challenged the order dated 30.7.2019, passed by Additional Civil Judge (Sr.Divn.) Batala, vide which defence of the petitioners/defendants was struck off due to non filing of written statement.

Perusal of the order dated 5.4.2019 would show that the cost(s) imposed on earlier occasion was paid, however, written statement was not filed. One more indulgence was granted to the petitioners to file written statement subject to payment of additional cost(s) of Rs.500/- to be paid to the opposite party. The case was adjourned for 30.7.2019. On 30.7.2019, neither the cost(s) was paid nor the written statement was filed. Owing to the conduct of the petitioners, impugned order was passed striking off defence of the petitioners.

In **Shri Anand Parkash Vs. Shri Bharat Bhushan**

Rai and another, 1982(1) RCR (Rent) 1 (Full Bench);
Manohar Singh Vs. Shri D.S. Sharma and others, 2007 (26)
RCR (Civil) 798 (Delhi); CR No.3586 of 2018 titled Gurmeet Singh Vs. Daljit Singh decided on 25.05.2018 and CR No.3926 of 2019 titled Jeet Singh vs Gurmeet Singh and others decided on 27.08.2019, it was held that in the event of non-payment of costs on the adjourned date, it would be mandatory on the part of the Court to disallow the prosecution of suit or defence as the case may be. Though it is discretion of the Court in terms of Section 35-B CPC to impose the cost(s), but once that discretion is exercised and the cost(s) is imposed, then the same becomes mandatory on the part of the defaulting party to pay cost(s) for further prosecution or the defence as the case may be.

In view of aforesaid legal position, non payment of cost(s) would entail in not permitting the defence of the case at the instance of the petitioners.

Accordingly, this revision petition is dismissed.

November 21, 2019
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(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No