

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

C.R. No.7966 of 2019 (O&M)

Date of Decision.11.12.2019

Jagir Kaur and others

...Petitioners

Vs

Joginder Singh

...Respondent

CORAM:HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. Vivek K. Thakur, Advocate
for the petitioners.

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JAISHREE THAKUR J. (ORAL)

1. This is a revision petition that has been filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 21.10.2019 passed by the Civil Judge (Jr. Divn), Kapurthala whereby defence of the petitioners stands struck off due to non-filing of the written statement.

2. Learned counsel for the petitioners would contend that the petitioners herein are arrayed as defendants No.1 to 9 in the civil suit and were served on 15.07.2019. Defendant No.8 has been proceeded ex parte whereas defendants No.1 to 7 and 9 were not able to file their written statement on the dates fixed by the trial court i.e. 07.08.2019, 23.09.2019 and 11.10.2019 and eventually on the next date i.e. 21.10.2019, their written statement and defence was struck off. It is submitted that the reason for non-filing of the written statement was that the petitioners had engaged a counsel and supplied all the relevant documents to him but clerk of the said counsel went abroad and on his return, was not able to trace out the documents supplied to him by the petitioners and therefore, the written

statement could not be filed within the stipulated period.

3. It is further contended that irreparable loss and injury will be caused to the petitioners herein in case they are not permitted to put up a defence in the civil suit filed and they should not be penalised on account of negligence on the part of the clerk of counsel engaged by them. It is also submitted that as on date neither issues have been framed nor evidence has been led and therefore, no prejudice would be caused to the respondents in case they are given one opportunity to file their written statement, which is ready.

4. I have heard learned counsel for the petitioners and without issuing notice, deem it appropriate to allow one more opportunity to the petitioners to file written statement on the next date before the trial Court i.e. 12.12.2019, subject to imposition of costs of Rs.1000/- to be paid to the District Legal Services Authority, Kapurthala. The impugned order is set aside and the revision petition stands allowed.

(JAISHREE THAKUR)
JUDGE

December 11, 2019

Pankaj*

Whether speaking/reasoned Yes/No

Whether reportable Yes/No