

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-1699-2020 (O&M)
Date of decision: 12.03.2020

Manga @ Maga Singh and others

.....Petitioners

versus

Rani and others

.....Respondents

CORAM: Hon'ble Mr. Justice Deepak Sibal

Present: Mr.Raman Mohinder Sharma, Advocate for the petitioners

Deepak Sibal, J. (Oral)

The present petition is directed against the order dated 09.01.2020 passed by the Civil Judge (Junior Division), Sunam, through which the petitioners' defence has been struck off for non-filing of the written statement.

The facts in brief, which need to be noticed for adjudicating upon the present petition are that the respondents filed a suit seeking therein to restrain the petitioners who were the defendants in the suit from dispossessing the respondents from the house detailed and described in the head note of the plaint.

Notice of the suit was issued to the petitioners by the Trial Court for 11.10.2019 on which date, on being served, the petitioners appeared before the Trial Court and sought time to file the written statement. The matter was adjourned to 26.11.2019 but since on that date the Trial Judge was on leave, the matter was taken up on 22.11.2019 and adjourned to 09.01.2020 on which date, on the ground that the petitioners had sought and got repeated adjournments, the Trial Court struck off the petitioners' defence.

Learned counsel for the petitioners has been heard.

Through the impugned order the petitioners' defence has been struck off on the ground that the petitioners have sought and got repeated adjournments to file their written statement. However, the record reveals otherwise. It is on 11.10.2019 that the petitioners had appeared before the Trial Court for the first time on which date the matter was adjourned to 26.11.2019. However, on 26.11.2019 the Trial Judge was on leave and therefore the matter was taken up before that date and adjourned to 09.01.2020 on which date the petitioners' defence has been struck off. Thus, no repeated adjournments were sought and got by the petitioners.

In view of the above facts; in line with the principles of natural justice; not to preclude the petitioners from raising their defence at the threshold of the suit filed against them and for the reason that learned counsel for the petitioners undertakes that the petitioners shall file their written statement within one week from today, the impugned order is set aside and the petitioners are granted one week to file their written statement.

The petition is allowed in the above terms.

If the respondents are aggrieved by passing of this order, they are at liberty to approach this Court by filing of an appropriate application.

12.03.2020

gk

(Deepak Sibal)
Judge

Whether speaking/ reasoned:

Yes/No

Whether Reportable:

Yes/No