

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Sr. No. 216

CR-1877-2020

Date of decision : 30.07.2020

Anoop Singh and another

..... Petitioners

VERSUS

Suraj Bhan and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr.Abhimanyu Batra, Advocate, for the petitioners.

None for contesting respondent No.1.

DEEPAK SIBAL, J. (ORAL)

Case taken up through video conferencing.

The present petition is directed against the order dated 07.11.2019, passed by the Civil Judge (Junior Division), Jind (for short, the Trial Court), through which the petitioners' defence had been struck off on the ground that in spite of two last opportunities granted to them they did not file their respective written statements.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent No.1/plaintiff filed a suit seeking therein to declare the agreements to sell dated 15.12.2017 and 24.04.2018 with regard to the property detailed and described in the head note of the plaint (for short, the suit property) as null and void primarily on the ground that petitioners/defendants No.1 and 2 had failed to perform their part of the aforesaid agreements. Permanent injunction to restrain the defendants in the suit from raising any further construction on the suit property was also sought.

On being put to notice, the petitioners, who were defendants No.1 and 2 in the suit, appeared before the Trial Court but when even after availing two last opportunities they did not file their respective written statements, through the order impugned in the present proceedings the Trial Court struck off their defence.

Learned counsel for the petitioners submitted that petitioner No.1 could not file his written statement as in connection with the dispute raised in the civil suit a FIR had also been registered against him and he was busy in the process of securing his anticipatory bail in such FIR. It is further submitted that petitioner No.2 failed to file written statement in time as he was attempting to arrive at an amicable settlement with respondent No.1.

In spite of service, no one appears on behalf of the contesting respondent No.1.

After considering the afore-submissions made by learned counsel for the petitioners and in line with the principles of natural justice as also not to preclude the petitioners from raising their written defence at the threshold of the suit filed against them, subject to payment of Rs.5,000/- as costs to be paid by each of the petitioners to respondent No.1, the impugned order is set aside and the petitioners are granted one effective opportunity to file their respective written statements. The same be filed within a fortnight from today.

The Trial Court shall ensure that the costs ordered to be paid by the petitioners to respondent No.1 are transferred to respondent No.1's bank account.

The petition is allowed in the above terms.

30.07.2020

shamsher

[DEEPAK SIBAL]
JUDGE

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