

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

CR-478-2022

Date of Decision: 11.02.2022

PARAMJIT SINGH AND ANR.

...Petitioners

Versus

RANJIT SINGH

...Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vishal Sharma (Vasudeva), Advocate
for the petitioners.

(Presence marked through Video Conference)

ARUN MONGA, J. (ORAL)

Petitioners assail an order dated 18.01.2022 passed by learned Civil Judge (Junior Division), Garhshankar, vide which, their defence has been struck off on account of their failure to file the reply to the counter claim within stipulated period of 90 days.

2. Learned counsel for the petitioners submits that the plaintiff-petitioners filed a suit for declaration to the effect that they are the owners in possession of the property marked as 'ABCD' shown in red colour in the site plan, whereby, the defendant/respondent filed a written statement as well as counter plea on 11.10.2021. Thereafter, the case was fixed for 17.11.2021 for filing reply to the counter claim by the plaintiff-petitioners. It was adjourned by the learned trial Court on three subsequent dates i.e. 13.01.2022, 17.01.2022 and vide order dated 18.01.2022, the defence of the plaintiff-petitioners was struck off. Hence the instant petition.

3. Learned counsel argues that impugned order has resulted in grave miscarriage of justice. For effective and proper adjudication of the case on its merits, the petitioners be permitted to file their written statement(s).

4. I have heard learned counsel for the petitioners and perused the case file. Notice to the respondent is dispensed with.

5. It is trite law that Rules of procedure are handmaids of justice. Any interpretation thereof that leads to foil real and substantial justice between the parties ought to be discouraged. In any case, no prejudice would be caused to the respondent if the petitioners are permitted to file their written statement even at this stage. Even otherwise, provision contained in Order 8 Rule 1 of CPC, has been held to be directory in nature by Supreme Court in *Salem Bar Association Vs. UOI, 2005(6) SCC 344*. The Courts should ordinarily, therefore, not take too harsh a view to strike off the defense at very early stage.

6. The counsel for the petitioners undertakes to file the written statement on or before the next date i.e. 25.04.2022 fixed before the court below.

7. In the overall premise, I deem it appropriate to grant one more effective opportunity to the petitioners to file their written statement(s), subject to payment of costs of Rs.10,000/-.

8. By way of imposition of costs, the petitioners shall plant trees worth Rs.10,000/- of deciduous and perennial in nature, of any variety viz. Neem, Amla, Gulmohar and/or Alstonia, in the neighbourhood of their area, where they reside. Plantation shall be carried out under the supervision of the District Agriculture Officer. Proof of plantation to be furnished by the

petitioners along with bill in the Registry of this Court, with supporting letter from the Agriculture Department, to be placed before this Court upon receipt thereof. In case, the petitioners default in doing so, liberty is granted to the Registry to place the matter before this Court to report non-compliance thereof.

9. The impugned order dated 18.01.2022 is modified to that extent and the revision petition is allowed accordingly.

(ARUN MONGA)
JUDGE

11.02.2022
gurpreet

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