

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

CR-1728-2022

Date of decision: 06.05.2022

Suman and another

... Petitioners

Versus

Bhoop Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE ARUN PALLI, JUDGE

Present: Mr. Sandeep Goyat, Advocate, for the petitioners.

ARUN PALLI, J. (Oral)

Vide this petition under Article 227 of the Constitution, the petitioners have prayed for setting aside the order dated 07.02.2022, passed by learned Principal Judge, Family Court, Hisar, vide which their defence has been struck off.

The petition filed by the respondent under Section 25 of the Guardians and Wards Act, 1890 claiming custody of his minor daughter - Jasvin and son - Mayank, who are currently in the custody of the petitioners, is pending adjudication.

Ex facie, despite repeated opportunities, the petitioners failed to submit their response and did not even choose to appear before the Court on the date fixed. As a result, defence of the petitioners was struck off. Undoubtedly, the petitioners have been remiss and failed to pursue their cause with diligence. But it shall be equally true that in the event, they are not permitted to submit their written statement and contest the petition on

merit in every likelihood, their rights and interest would be severally effected. Therefore, to secure the ends of justice, in the opinion of this Court, they are required to be afforded one opportunity to file reply/response and contest the matter. However, to settle the equities, for owing to the delay caused by the petitioners, the matter has not made any tangible progress in the past, the respondent deserves to be compensated with suitable costs.

Accordingly, the petition is allowed. The order dated 07.02.2022 is set aside. The Family Court, Hisar shall afford one effective opportunity to the petitioners to submit their written statement/response, which, however, shall be subject to payment of costs of Rs.10,000/-. It is made clear that in the event, the petitioners fail to submit the written statement on or before the stipulated date or default to tender costs, as indicated above, their defence would be deemed to have been struck off and no further adjournment shall be granted by the Court in this regard.

This order is being passed without issuing any formal notice to the respondent so as to avert any further delay in the proceedings pending before the trial Court and to save the expenses that he shall have to incur to defend these proceedings. Just in case, the respondent would have any grievance, he shall be at liberty to move an appropriate application in this case.

(Arun Palli)
Judge

06.05.2022
Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO