

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

128

CR-2577-2022

Date of decision: 11.07.2022

Jagdish Singh and another

.....Petitioners

Versus

Jagmeet Singh and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Jagram Singh Cooner, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

The petitioners by way of the instant revision petition are seeking the setting aside of order dated 04.05.2022 (Annexure P-1) passed by learned Civil Judge (Jr. Divn.), Ambala vide which their defence was struck off.

Learned counsel for the petitioners submits that on receipt of summons in the suit for recovery instituted by the plaintiff, they had put in an appearance on 14.10.2021 and thereafter adjournment was sought, however, they failed to file written statement and reply to the stay application. Learned counsel submits that since the trial is still at the initial stage as evidence is yet to commence, it would not in any manner adversely affect the progress of the trial in case one last effective opportunity is granted to the petitioners to file their written statement.

I have heard learned counsel and perused the material on record.

The provisions of Order 8 Rule 1 of the CPC no doubt are

directory in nature, however, at the same time the Courts must exercise their discretion to condone the delay, if any, in filing the written statement after exercising due circumspection and in case there appears to be an attempt on the part of the defendant to engage in dilatory tactics, the Courts should nip the same unhesitatingly.

Adverting to the case in hand, the petitioners were granted several opportunities to file their written statement, however, they failed to do so.

Be that as it may, if the petitioners are not granted one more opportunity to file their written statement, they would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioners to file their written statement.

In the wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which the respondent shall have to incur to defend these proceedings, the impugned order dated 04.05.2021, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioners are granted one last effective opportunity to file their written statement.
2. In the event of default by the petitioners, the case shall not be adjourned any further for filing of their written statement and consequently their defence shall be deemed to be struck off.
3. This, however, shall be subject to payment of costs

in the sum of Rs.2,500/- to be paid to respondent
No.1/plaintiff which shall be a condition precedent.

11.07.2022

Vinay

(MANJARI NEHRU KAUL)
JUDGE

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