

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

CR No.3207 of 2022

Date of Decision:16.08.2022

M/s Indus Towers Ltd. and another

...Petitioners

Versus

Dharambir Singh and others

...Respondents

CORAM:- HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present:- Mr. Vishal Gupta, Advocate
for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

Instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 04.07.2022 passed by Additional Civil Judge (Sr. Divn.), Batala (Annexure P-2) vide which the defence of the petitioner Company was struck off on account of the written statement not being filed in time.

Learned counsel for the petitioners submits that they put in their first appearance on 22.03.2021. The case was thereafter adjourned to 27.04.2021 for filing of Power of Attorney and written statement. Thereafter, the case could not be taken up due to the outbreak of the pandemic and the case was repeatedly adjourned which was one of the reasons why written statement could not be filed in future. He further submits that thereafter though the written statement was ready to be submitted before the Court, however, counsel for the petitioners had to go out of station on account of some medical emergency in his family. A prayer has been made to grant one last opportunity to the petitioners to file their written statement else it would prejudice the case of the petitioners.

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

A perusal of the record reveals that the petitioner has indeed been negligent in pursuing the case. However, at the same time this Court is also conscious that if the petitioner is not granted one more opportunity to file his written statement, he would suffer irreparable loss which in turn would result in miscarriage of justice, more so, when the case is still at a very nascent stage. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to file his 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 04.07.2022, is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to file his written statement.
2. In the event of default by the petitioner, the case shall not be adjourned any further for filing of his written statement and consequently his defence shall be deemed to be struck off.
3. This, however, shall be subject to payment of costs in the sum of Rs.10,000/- to be paid to the respondents, which shall be a condition precedent.

August 16 2022
P.Bhatt

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned Yes/No

Whether reportable Yes/No