

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

CR-4106-2022 (O&M)

Date of decision : 23.09.2022

Chairman, PSPCSL and others

...Petitioners

Vs.

Gaurav Dang and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Pawan Kumar, Advocate for the petitioners.

MANOJ BAJAJ, J.

Petitioners (defendants) are aggrieved against the order dated 10.05.2022 passed by Civil Judge (Senior Division), Ludhiana, whereby in a suit bearing No.CS-3335-2019 for declaration and permanent injunction filed by respondent (plaintiff), their application under Section 151 CPC for recalling/reviewing the order dated 19.09.2019, striking off defence of petitioners, was dismissed.

Learned counsel has argued that the petitioners appeared before the trial Court and were granted few adjournments for filing the written statement, but the needful was not done because certain documents relied upon by plaintiffs were not made available to them by the plaintiffs. According to learned counsel, on 19.09.2019, the petitioners/defendants had moved an application for production of documents and the notice in the said application was issued to plaintiff for 31.10.2019 for filing reply. Thereafter, again the case was adjourned for filing reply to the said application, which was filed on 29.01.2020. Learned counsel further submits that in March, 2020, pandemic COVID-19 broke out, and the order dated 19.09.2019 striking off the defence was noticed by the petitioners later on, therefore, an application was filed by

the petitioners for recalling said order, but the trial Court erroneously dismissed the said application with the observation that it has no power to either recall or review its own order. He prays that the impugned order be set aside.

Learned counsel further submits that the written statement is ready with the defendants and would be filed positively on or before 17.10.2022 i.e. the date fixed before the trial Court. He submits that in case, the petitioners are allowed to file their written statement, no prejudice would be caused to the other side. Learned counsel prays for last opportunity to file written statement.

Heard.

In view of the limited relief prayed for by the petitioners, this Court is not inclined to issue notice to the respondents, as it may cause unnecessary burden upon them and the nature of order would not cause any prejudice to them. However, it is made clear that in case, the plaintiffs feels that the petitioners/defendants have not approached this Court with clean hands, it shall be open for them to seek recalling of this order.

Resultantly, the impugned orders dated 19.09.2019 and 10.05.2022 are set aside and petitioners/defendants are granted only one opportunity to file their written statement on or before the next date of hearing fixed before the trial Court i.e. 17.10.2022.

Disposed of.

(MANOJ BAJAJ)
JUDGE

23.09.2022

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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No