

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

CR No. 5107 of 2022

DATE OF DECISION :- December 20, 2022

Smt. Darshana Kumari and another

...Petitioners

Versus

Balwinder Kumar and others

...Respondents

CORAM: HON'BLE MR. JUSTICE H.S. MADAAN

Present:- Mr. Nikhil Vyas, Legal Aid Counsel for the petitioners.

Mr. Lakhwinder Singh Mann, Advocate has filed vakalatnama for respondent No. 1, which be taken on record.

In a civil suit filed by plaintiff Balwinder Kumar against defendants Smt. Darshana Kumari, wife, Amanjot, Ranjana Kumari and Navpreet, daughters of Sh. Surinder Kumar, all residents of VPO Bhangala, Tehsil Phillaur, District Jalandhar, pending in the Court of Additional Civil Judge, Sr. Division, Phillaur on getting notice the defendants had put in appearance in the Court. However, they were unable to file written statement within 90 days of putting in appearance, as such the trial Court vide order dated 19.2.2020 struck off their defence leaving them aggrieved and they have approached this Court by way of filing the present revision petition, notice of which was given to the respondents and respondent Balwinder Kumar, who is plaintiff in the civil suit has put in appearance through counsel.

I have heard legal aid counsel for the revision petitioners and learned counsel for respondent No. 1 besides going through the record.

No doubt the defendants have been some what negligent in not filing the written statement within the stipulated period but at the same time it has to be taken into notice that they are rustic persons and petitioner No. 2 Navpreet is a

minor girl. There does not appear to be any intentional or deliberate intention to delay the proceedings. It is to be taken into view that the defendants had earlier filed an application under Order 7 Rule 11 CPC seeking rejection of the plaint for the reason that the ad valorem Court fee had not been affixed on the plaint which had been allowed by the Court vide order dated 23.5.2022 and deficiency of Court fee was made good by the plaintiff.

Considering the facts and circumstances of the case, I find that it would not be proper and appropriate to shut the doors of contest upon the revision petitioners rather they deserve to be given an opportunity to present their view point so that the suit can be decided on merits rather non suiting the revision petitioners for technical reasons. Therefore, the order under revision petition is set aside and the revision petitioners are given one opportunity to file written statement within three weeks from today subject to payment of Rs.5,000/- as costs. The payment of cost shall be condition precedent for allowing the defendants to file written statement.

Learned counsel for the respondents has submitted the proceedings in the trial Court are going on at a slow pace and those be directed to be expedited.

In view of the request, the trial Court is directed to make necessary efforts for having expeditious proceedings in the case.

The revision petition stands disposed of accordingly.

(H.S. MADAAN)
JUDGE

December 20, 2022
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No