

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-7553-2019 (O&M)
Date of decision: 16.09.2022

NARESH KUMAR AND ANR

..Petitioners

Versus

AMARJIT KAUR

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Divanshu Jain, Advocate,
for the petitioner.

Mr. G.S.Dhaliwal, Advocate,
for the respondent.

ANIL KSHETARPAL, J(Oral)

The petitioners herein are defendants in a suit filed by the plaintiff for grant of decree of declaration to the effect that the registered sale deed is forged, null and void document being a result of sham transaction. A prayer for grant of decree of permanent injunction has also been made.

Both the defendants entered appearance on 30.05.2018 and the case was adjourned for filing written statement. On 30.05.2018, i.e. the date of appearance itself, the defendants filed an application under Order XI Rule 14 CPC for supply of certain documents. The Court, while giving copy of the application to the learned counsel representing the plaintiff, adjourned the case for filing written statement to 25.07.2018. On 25.07.2018, the written statement was not filed and the case was adjourned to 30.08.2018. The Court, on 30.08.2018, disposed of the application directing the defendants to get the copies of the documents upon inspection of the judicial

record. The case was adjourned to 15.09.2018, however, even on 15.09.2018, the written statement was not filed. Thereafter, the case was adjourned to 06.10.2018, however, the Presiding Judge was on leave on that day so the case was taken up on 05.10.2018, i.e. a day prior and the case was adjourned to 13.10.2018. On 13.10.2018 itself, the defence was struck off. An application filed for recall of the order by permitting the defendants to file written statement has also been dismissed.

This Bench has heard the learned counsel representing the parties at length and with their able assistance perused the paper book.

On the one hand, the learned counsel representing the petitioners, while drawing the attention of the court to various zimni orders passed, submits that the court failed to grant reasonable and sufficient opportunity for filing the written statement. On the other hand, the learned counsel representing the plaintiff contends that the application for recall of the order was filed after more than 180 days.

It is well known that the rules of procedure are a handmaid for justice. On the very first opportunity, the defendants filed an application for directing the plaintiff to supply the documents. The application remained pending till 30.08.2018. The trial Court, on 30.08.2018, directed the petitioner to get the copies of the concerned documents upon inspection of the court record.

Thereafter, on 06.10.2018, the Presiding Judge was on leave and the case was not taken up.

Keeping in view the aforesaid facts, the trial Court is directed to permit the defendants to file the written statement which is stated to have already been prepared, within a period of one week from the date on which

this order is uploaded on the website of the Court. This opportunity shall be subject to payment of costs of Rs.2,000/- payable to the plaintiff by way of demand draft.

After the written statement is filed, the court shall proceed with the case in accordance with law. The next date before the trial Court is stated to be 27.10.2022.

Disposed of accordingly.

All the pending miscellaneous applications, if any, are also disposed of.

September 16, 2022

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(ANIL KSHETARPAL)
JUDGE

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