

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

120

**CR-5995-2022 (O&M)
Date of decision: 19.12.2022**

Ramanpreet Kaur and anotherPetitioners

Versus

Asha DeviRespondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Karanjeet Singh Brar, Advocate for the petitioners.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 04.10.2022 passed by learned Additional Civil Judge (Sr. Divn.), Kharar, District SAS Nagar vide which the defence of the petitioners was struck off.

Learned counsel for the petitioners *inter alia* contends that the learned Trial Court failed to consider that copy of the plaint and other relevant documents had been supplied to the petitioners only on 20.07.2022, on an application moved by the petitioners, and without the relevant documents having been supplied prior thereto, it would not have been possible for the petitioners to prepare and file the reply. On 16.08.2022, as the Presiding Officer was on leave, the case was adjourned to 09.09.2022 and thereafter on 09.09.2022 the case was adjourned to 04.10.2022 for filing reply to the main petition as well as reply to the application moved by the respondent under Order 8 Rule 1 of the CPC. On the adjourned dated i.e. 04.10.2022, the defence of the petitioners has been struck off and the petitioners were ordered to be

proceeded against ex-parte by observing that the period of 90 days for filing the reply had elapsed despite numerous opportunities given to the petitioners. Learned counsel submits that however, it was on account of genuine reasons that the petitioners could not file the reply as petitioner No.2 is a heart patient and he was not in good health during that time. Learned counsel submits that a lenient and compassionate view be taken and one last effective opportunity be granted to the petitioners to file their reply.

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

If the petitioners are not granted one more opportunity to file their reply, 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 reply.

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 04.10.2022, 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 reply on the next date fixed before the Trial Court.
2. In the event of default by the petitioners, the case shall not be adjourned any further for filing of their reply 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.10,000/- to be paid to respondent
which shall be a condition precedent.

19.12.2022

(MANJARI NEHRU KAUL)

Vinay

JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No