

In the High Court of Punjab and Haryana, at Chandigarh**Civil Revision No. 5738 of 2018****Date of Decision: 19.09.2023**

Maninder Grewal and Another

... Petitioner(s)

Versus

Harjit Singh Chima and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Anil Kshetarpal.

Present: Mr. Rajesh Garg, Senior Advocate
with Ms. Neha Matharoo, Advocate
for the petitioner(s).

Anil Kshetarpal, J.

1. The petitioners herein are the defendants in a suit for recovery of ₹8,00,000/- as compensation filed by the plaintiffs (respondents herein).
2. In this revision petition, the petitioners assail the correctness of the orders passed on 11.04.2018 and 13.09.2018. Vide order dated 11.04.2018, the defendants' defence was struck off for failure to file the written statement within a period of 90 days. Vide order dated 13.09.2018, an application filed by the defendants to recall the previous order was dismissed.
3. The respondents have not entered appearance despite service of notice by this Court.
4. The learned senior counsel representing the petitioners contends that the petitioners entered appearance pursuant to the service of notice of the suit on 01.12.2017 and the case was adjourned to 15.03.2018. An

application for production of the documents filed by the defendants on

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15.03.2018 was dismissed. The case was adjourned to 02.04.2018, at the given date the Presiding officer was on leave. The case was, thereafter, adjourned to 11.04.2018, when the defence of the defendants got struck off. The learned senior counsel contends that in view of the judgment passed in *Salem Advocate Bar Association v., Union of India (2005) 6 SCC 344*, the provision for filing the written statement within a period of 90 days has been held to be directory and the trial Court has erred in striking off the defence of the petitioners.

5. This Court has considered the submissions. It is evident from the facts noticed above that there was no intentional delay on the part of the petitioners in not filing the written statement. In such circumstances, the Court should have granted an additional opportunity by imposing some cost.

6. Keeping in view the aforesaid facts, the present revision petition is allowed. The orders dated 11.04.2018 and 13.09.2018 are set aside. The petitioners are granted 15 days' time to file their written statement from today, subject to payment of cost of ₹5,000/- to the plaintiffs.

(Anil Kshetarpal)
Judge

September 19, 2023

"DK"

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No