

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

CR-557-2023

Date of Decision: 30.01.2023

Piara Singh and others

..... Petitioners

Versus

Sukhmanjeet Singh and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Neeraj Madaan, Advocate,
 for the petitioners.

RAJBIR SEHRAWAT, J. (ORAL)

This is a petition filed under Article 227 of the Constitution of India for quashing/setting aside the order dated 03.01.2023 (Annexure P-2) passed by the Civil Judge (Junior Division), Jalalabad, in Civil Suit No.293 of 04.07.2022 titled as 'Sukhmanjeet Singh etc. Vs. Piara Singh etc.', vide which the defence of the petitioners/defendants was struck off; along with certain other prayers.

It is submitted by learned counsel for the petitioners that the impugned order for striking off the defence of the petitioners has wrongly been passed. In fact for the long time, the petitioners were not served notice about the suit because the plaintiff (respondents herein) had not given the correct address. Even after being served, the petitioners could not file the written statement because certain documents were required to be pleaded and attached to the written statement to substantiate the case of the petitioners. However, the documents could not be procured from the

government agencies within time. Learned counsel has further submitted that the petitioners are the contesting defendants in the suit. If, they are not granted opportunity to file written statement and to contest the suit, then their interest would be prejudiced beyond redemption. Therefore, the petitioners deserve an opportunity to file written statement and to defend the suit accordingly.

In view of the nature of the order being passed by this Court, it is not considered necessary to summon the opposite party at this stage.

Having heard learned counsel for the petitioners and having perused the case file, this Court finds that the Trial Court has granted several opportunities to the petitioners to file written statement. Three times at least, even the last opportunity was granted, subject to payment of costs. However, even those opportunities were not availed by the petitioners to exercise their right to file written statement. Therefore, this Court does not find any *ex facie* illegality or impropriety with the order passed by the Trial Court.

However, the law of procedure is handmade to advance the interest of the substantial justice. Therefore, every effort has to be made to hear-out to the parties to the *lis* instead of excluding hearing to them. Moreover, the petitioners being the contesting defendants, their case would be seriously prejudiced if they are not granted opportunity to file written statement and to contest the suit accordingly. Therefore, it would not be inappropriate, if the petitioners are granted one more opportunity to file the written statement and to contest the suit accordingly, however, by putting

them under an appropriate financial burden.

Accordingly, the present petition is allowed. The impugned order is set aside. The Trial Court is directed to grant one effective opportunity to the petitioners to file their written statement and to contest the suit accordingly, however, subject to payment of Rs.15,000/- as costs; to be deposited with the Poor Patients' Welfare Fund, PGIMER, Chandigarh, within a period of four weeks from today. It is further ordered that the Trial Court shall grant the aforesaid opportunity only on production of the receipt of the costs having been deposited by the petitioners; as ordered above.

(RAJBIR SEHRAWAT)
JUDGE

30.01.2023
adhikari

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