

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

110

CR-849-2023

Date of Decision :07.02.2023

Yogesh Billa and others**...Petitioners**

Versus

Vinod Kumar Bindra and others**...Respondent****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Arvind Kashyap, Advocate for the petitioners.

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Harsimran Singh Sethi, J. (Oral)

The present petition has been filed for setting aside the order dated 22.11.2022 (Annexure P/1) passed by the trial Court by which, the defence of the defendants No.2, 4 and 5 has been struck off by the trial Court.

Learned counsel for the petitioners submits that though, opportunities were granted to the petitioners-defendants No.2, 4 & 5 to file their written statement but for one or the other reason, the same could not be filed up to 22.11.2022 on which date, defence of the petitioners-defendants No.2, 4 & 5 was struck off by the trial Court.

Learned counsel for the petitioners further submits that on the same date the case was adjourned for 14.02.2023 and the zimini order shows that even defendants No.1 and 3 are yet to be served hence, one

opportunity be given to the petitioners-defendants No.2, 4 & 5 to file their

written statement even if, the same is subject to imposition of cost.

I have heard learned counsel for the petitioners.

Keeping in view the averments which have been made before this Court, the present petition is disposed of at this stage without issuing notice of motion.

From the impugned order dated 22.11.2022 (Annexure P/1), it is clear that opportunities were given to the petitioners-defendants No.2, 4 & 5 to file their written statement, which they never availed of and as the other defendants have not even served up to 22.11.2022, the Court could have exercised its discretion to grant another opportunity to petitioners-defendants No.2, 4 & 5 to file their written statement so that the lis between the parties could be decided on merits and no prejudice is caused to any of the party.

Keeping in view the above as undertaken by the learned counsel for the petitioners that petitioners-defendants No.2, 4 & 5 will file their written statement by the date fixed before the trial Court i.e. 14.02.2023, impugned order dated 22.11.2022 (Annexure P/1) passed by the trial Court is set aside with the clear indication that only one more opportunity will be granted to the petitioners-defendants No.2, 4 & 5 to file their written statement by the next date of hearing before the trial Court i.e. 14.02.2023 subject to payment of cost of Rs.5000/- to be paid to the plaintiffs. The written statement will only be accepted by the trial Court if the same is accompanied by cost imposed by this Court. It is made clear that in case the opportunity granted by this Court is not availed by the petitioners-defendants No.2, 4 & 5 by the next date fixed before the trial Court, the impugned order dated 22.11.2022 (Annexure P/1) will continue

to remain in operation.

The present civil revision stands allowed in above terms.

February 07, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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