

CR-1038-2020 (O&M)

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2023:PHHC:074374

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CM-3516-CII-2020 in/&
CR-1038-2020 (O&M)
Date of Decision :22.05.2023

The State of Punjab and others

...Petitioners

Versus

Gurdev Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Gurpreet Singh, Addl. A.G. Punjab
for petitioner-State.

Ms. Ekjot Sandhu, Advocate for the respondent.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-3516-CII-2020

As prayed for, application is allowed.

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Present revision petition has been filed for setting aside the order dated 27.11.2019 (Annexure-P/5) passed by the Civil Judge, (Junior Division), Gurdaspur by which, the defence of the petitioners-defendants was stuck off.

Learned counsel for the petitioner-State submits that non-filing of the written statement was an inadvertent mistake and as written statement was to be filed after inspecting the old record due to which the delay in filing of the written statement have occurred, which delay should have been

condoned by the Court below.

Learned counsel appearing for the respondent submits that due opportunity was given to the petitioner-State to file the written statement but they failed to avail the said opportunity, hence impugned order passed, was perfectly valid and legal.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

Argument being raised by the learned counsel for the petitioner-State is that keeping in view the averments made in the civil suit, old record was needed to be perused and only thereafter, written statement could have been filed due to which the delay has occurred, hence the impugned order may kindly be set aside and one more opportunity may kindly be granted to the petitioner-State to file the written statement even if, by imposing cost.

The lis between the parties is to be decided on merits as far as possible. It has been mentioned that old record was needed to be perused before filing the written statement. The delay which has been caused to the respondent-plaintiff could have been compensated by way of award of cost.

Keeping in view the above, present revision petition is allowed. Order dated 27.11.2019 (Annexure-P/5) passed by the Civil Judge, (Junior Division), Gurdaspur is set aside. One more opportunity is granted to the petitioner-State to file the written statement.

Trial Court is directed that in case, the written statement is filed by the petitioner-State upto 04.07.2023, the same be taken on record and thereafter, proceed with the suit in accordance with law. For the prejudice caused to the respondent-plaintiff due to the act of the petitioner-State,

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which has delayed the proceedings, the respondent-plaintiff will be entitled for cost of Rs.15,000/- to be paid by the petitioner-State while filing the written statement.

Present revision petition is allowed in above terms.

CM-3517-CII-2020

Application is disposed of.

May 22, 2023

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No