

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

CR No. 1518 of 2023

Date of decision: 10.03.2023

Gurwinder Singh alias Ginda and another Petitioners.

Versus

Pavittar Singh and others Respondents.

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present:- Mr. Rajiv Joshi, Advocate, for the petitioners.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners have challenged the order dated 14.08.2017 passed by the Civil Judge (Junior Division), Phillaur, whereby their defence has been struck off.

Learned counsel for the petitioners submits that the defence of the petitioners has erroneously been struck off by the impugned order although respondent No.1/plaintiff himself had taken several adjournments. He also submits that the counsel representing the petitioners before the trial Court did not inform them about the impugned order and, therefore, they are challenging the same at this stage.

Heard.

Respondent No.1/plaintiff, who is stated to be an NRI, has filed a suit for declaration that he is the owner in possession of the house in dispute. It is also stated that the alleged agreement to sell dated 19.06.2014 is the result of fraud and misrepresentation. Vide this alleged agreement to

sell dated 19.06.2014, respondent No.1/plaintiff is stated to have received the earnest money from the petitioners/defendants. However, none of the parties has filed any suit for specific performance of the agreement to sell dated 19.06.2014. The petitioners/defendants were granted adequate opportunity to file their written statement. The impugned order striking off the defence of the petitioners/defendants was passed on 14.08.2017, but the same has been challenged in the year 2023. It is apt to note that the petitioners preferred an application for cross-examination of the witnesses on 01.04.2022 which had been allowed. It is indicative of the factum of the petitioners/defendants being aware of the proceedings as well as the impugned order. There was no plausible explanation for challenging the impugned order after a period of five years. Therefore, I do not find any infirmity in the impugned order dated 14.08.2017 passed by the trial Court striking off the defence of the petitioners/defendants.

Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

10.03.2023
Ramesh

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No