

**111 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**Civil Revision No. 1540 of 2023
Date of Decision :13.03.2023**

Pawan Kumar and another

... Petitioners

Versus

Karnataka Bank Limited

... Respondent

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Rishu Mahajan, Advocate, for the petitioners.

SANJIV BERRY, J (ORAL).

The petitioners have challenged the impugned order Annexure P-2 dated 06.01.2023 whereby the defence of the petitioners have been struck off.

2. Briefly stated, the facts of the case are that a civil suit for recovery had been filed by Karnataka Bank Limited against the present petitioners. The present petitioners (defendants in the Court suit) appeared through their counsel before the learned Civil Judge on 01.08.2022 and sought time to file written statement and accordingly the case was adjourned to 23.08.2022. When again the written statement was not filed and on the request of defendants (i.e. present petitioners) the case was adjourned to 26.09.2022, subject to last opportunity. Again on 26.09.2022 the written statement was not filed and on request by the counsel for the defendants (i.e present petitioners) the case was adjourned to 11.11.2022 for filing written

statement, subject to last opportunity. On 11.11.2022 the defendants (present petitioners) again did not file written statement and on the request of their counsel seeking adjournment the case was adjourned to 06.01.2023 for filing of written statement subject to last opportunity and payment of ₹500/- as cost. On 06.01.2023 the written statement was again not filed despite last opportunity, nor the cost of ₹500/- was paid by the defendants, as a consequent the learned Civil Judge passed the impugned order thereby, striking of the defence of the defendants.

3. It has been contended by learned counsel for the petitioners that the impugned order is illegal and perverse and the petitioners will suffer irreparable loss in case they are not permitted to lead defence. He further submitted that the written statement was to be filed by the counsel for the petitioners and it was never informed by their counsel regarding filing of written statement.

4. After considering the submissions and perusing the record, as far as the factual position is concerned there is no dispute qua the same in as much as the petitioners appeared through their counsel before the learned Civil Judge on 01.08.2022 who filed the power of attorney in the Court and sought time to file the written statement as is evident from Annexure P-3. It is evident from the copies of the subsequent *zimney* orders placed on record by the petitioners that the case was adjourned to 23.08.2022, 26.09.2022, 11.11.2022, for filing of the written statement by the defendants (i.e present petitioners) on the request of their counsel. It is worth mentioning here that on 11.11.2022 when the defendants did not file written statement and requested for date, it was on his request that the learned Civil Judge granted

adjournment to the petitioners to file written statement subject to last opportunity and also subject to payment of ₹500/- as cost. But strangely on the adjourned date i.e. 06.01.2023 the petitioners again failed to file written statement and even did not care to deposit ₹500/- as costs.

5. Thus it is evident that the present petitioners through their counsel have sought various adjournments to file written statement after appearing in Court on 01.08.2022 and even despite being accommodated by the concerned Court by granting adjournments for filing of the written statement and finally giving last opportunity and also ordered the payment of ₹500/- as costs, the petitioners acted carelessly in neither paying cost nor filing written statement despite availing sufficient opportunities. In these circumstances, the learned Civil Judge had no alternative except to strike of the defence of the petitioners vide order dated 06.01.2023. Incidentally all such orders referred to above have been passed in the presence of the duly appointed counsel representing the petitioners. The learned counsel for petitioner could not point out any illegality or infirmity in the impugned order so as to invoke the jurisdiction of this Court under Article 227 of the Constitution of India.

6. As a consequent, finding no ground to interfere in the impugned order dated 06.01.2023 and also no merits in the revision petition, the same is hereby dismissed.

(SANJIV BERRY)
JUDGE

13.03.2023

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |