

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

Sr. No.121

CR-2078-2023

Date of Decision: 31.07.2023

HARICHAND AND OTHERS

....Petitioners

Versus

DEEGHRAM AND OTHERS

..... Respondents

CORAM: HON'BLE MRS JUSTICE ARCHANA PURI

Present:- Mr. Deepam Ragav, Advocate
for the petitioners.

ARCHANA PURI, J. (Oral)

The petitioners have invoked the jurisdiction of this Court under Article 227 of the Constitution of India, for seeking setting aside of the order dated 01.12.2022 (Annexure P-10), passed by the court below in case bearing CS-3472-2021 titled "*Deeghram and others v/s Harichand and others*", whereby the defence of the petitioners was struck off.

As culled from the paper book, the respondents/plaintiffs had filed a suit for partition and permanent injunction and therein in pursuance of the notice issued, the respondents had made appearance and repeatedly the case was fixed for filing of the written statement. However, the written statement at the behest of the petitioners (who are defendants No.1 to 5 before the Court below) had not been filed and consequently vide the impugned order dated 01.12.2022, the defence of the petitioners was struck off and issues were framed.

From the perusal of the impugned order, it is evident that after framing of the issues, the court concerned did not fix any date further in the case.

On query by this Court, learned counsel for the petitioners had submitted that the case was thereafter taken up by the court below on 18.04.2023. Also, it is submitted that till date, no PW has been examined and the case is still at the stage, where it was at the time of the passing of the impugned order.

Considering the aforesaid fact situation and also keeping in view the fact that the other defendants also made appearance and are contesting the case and more particularly, when the case, as such, had not made any progress since the passing of the impugned order, in the interest of justice, the impugned order is set aside and only one opportunity is given to the petitioners to file the written statement. However, the date fixed before the court below is 09.10.2023.

In pursuance of the instant order, learned Lower Court shall issue notice to the respondents and fix a date prior to the date already fixed for filing written statement by the petitioners.

Keeping in view the same, the instant revision petition is allowed, subject to payment of Rs.20,000/-, before the concerned District Legal Services Authority.

31.07.2023
Sonu

(ARCHANA PURI)
JUDGE

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