

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

(111)

CR-2733-2023

Date of Decision : May 03, 2023

Ramji Lal and others**.. Petitioners****Versus****Sandeep Kumar Sharma and others****.. Respondents****CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI**

Present: Mr. Aman Bahri, Advocate, for the petitioners.

HARSIMRAN SINGH SETHI J. (ORAL)

1. In the present civil revision petition, the challenge is to the order dated 26.10.2022 (Annexure P-12) by which, the defence of the defendants No. 1 to 7 was struck off on the ground that they have already availed several opportunities to file written statement but did not file the same.

2. It may be noticed that on the same date, issues were also framed by the same order whereas, the present petition has been filed after a period of approximately six months of the passing of the impugned order.

3. Learned counsel for the petitioners submits that one opportunity be granted to file the written statement as the dispute between the parties should be decided on merits as far as possible, even if the said opportunity is to be granted by imposing cost.

4. On being asked about the present status of the suit, learned counsel for the petitioners very fairly stated that as of now, one official

witness has already been examined and cross-examined as well by the

petitioners and six witnesses have already tendered their affidavit in examination-in-chief.

5. This fact show that the trial has already proceeded after the passing of the impugned order and at this stage, granting the benefit of filing the written statement especially when even official witness has already been cross-examined by the petitioners will amount to de novo trial, which will further delay the proceedings.

6. It is also settled principle of law that the lis between the parties should be decided on merits after giving due opportunity to the parties as far as possible. Only prejudice to be caused to the plaintiffs is that they will suffer further delay but the said prejudice can be compensated by award of cost.

7. The prayer of the petitioners for grant of one more opportunity to file the written statement by the next date of hearing, is accepted subject to the payment of Rs.25,000/- as costs to the respondents-plaintiffs for the delay caused. It is made clear that no further opportunity will be granted.

8. As the present order has been passed without hearing the respondents, in case the respondents feel prejudice in any manner, they will be free to revive the present petition by filing appropriate application.

9. The present civil revision petition is allowed in above terms.

May 03, 2023
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No