

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-7729-CII-2023 in/&
CR-2622-2023 (O&M)
Date of Decision :29.04.2023

M/s Rotar International and another

...Petitioners

Versus

M/s Raj Cycle Works

...Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr.R.P.S. Brar, Advocate for petitioners.

* * *

Harsimran Singh Sethi, J. (Oral)

CM-7729-CII-2023

Application is allowed as prayed for.

CR-2622-2023

Present civil revision petition has been filed for setting aside order dated 28.02.2023 (Annexure P/7) passed by the Civil Judge, Junior Division, Ludhiana by which, defence of the petitioners-defendants was struck off on the ground that written statement has not been filed by them despite availing sufficient opportunities.

Learned counsel for the petitioners-defendants argues that the documents were sought to be produced before the filing of the written statement and those documents were supplied by the respondent-plaintiff on 04.02.2023 and the case was adjourned to 28.02.2023 for filing of the written statement hence, only one effective opportunity was given to the petitioners-defendants to file written statement after supplying the

documents hence, assertion that sufficient opportunities were given to the petitioners-defendants to file written statement before striking their defence, is not correct.

Learned counsel for the petitioners-defendants submits that even otherwise, by the next date of hearing fixed before the trial Court i.e. 02.05.2023, petitioners-defendants will file written statement and the same may kindly be ordered to be taken on record and, thereafter, suit be proceeded in accordance with law.

I have heard learned counsel for the petitioner and have gone through the record with his able assistance.

Keeping in view the fact that order dated 04.02.2023, which is on record as Annexure P/6, according to which, the documents were supplied by the respondent-plaintiff on the said date after which opportunity was granted to the petitioners-defendants to file the written statement, in the fitness of the things, one more opportunity is granted to the petitioners-defendants to file written statement keeping in view the settled principle of law that all the efforts should be made to decide the lis between the parties on merits as far as possible.

Keeping in view the above, order dated 28.02.2023 (Annexure P/7) passed by the Civil Judge, Junior Division, Ludhiana is set aside. In case, by the next date of hearing fixed before the trial Court i.e. 02.05.2023, written statement is filed by the petitioners-defendants, the same be taken on record and, thereafter, suit be tried in accordance with law.

It is made clear that in case no written statement is filed by the petitioners-defendants by the next date of hearing i.e. 02.05.2023, no further opportunity will be granted to them to file written statement.

As the present order is passed without issuing notice of motion to the other side, it is made clear that in case respondent-plaintiff feels prejudiced by this order, liberty is extended to file appropriate application in the present civil revision petition.

Present civil revision petition is allowed in above terms.

April 29, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

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