

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

Sr. No.132

**CR-2981-2023 (O&M)
Date of Decision: 12.09.2023**

HARPREET SINGH AND ANOTHER

....Petitioners

Versus

BIKKAR SINGH

.....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

Present:- Mr. Mandeep Singh, Advocate, for
Mr. Vishal Mittal, Advocate,
for the petitioners.

ARCHANA PURI, J. (Oral)

CM-15298-CII-2023

Present application has been filed for placing on record copies of the zimini orders passed by learned Lower Court, in compliance of the order dated 15.05.2023 passed by this Court.

In view of the averments made in the application, same is allowed and the requisite orders are taken on record.

Main case

The petitioners have invoked the jurisdiction of the present Court, under Article 227 of the Constitution of India, thereby making prayer for setting aside of the order dated 04.01.2023 (Annexure P-2) passed by learned Lower Court, whereby the defence of the petitioners/defendants was struck off and the case was fixed for plaintiff evidence.

Heard learned counsel for the petitioners.

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Perusal of the zimini orders, which have been placed on record vide CM-15298-CII-2023, today itself, reveals that the suit was firstly dealt with by learned Lower Court on 04.03.2020, when the notice was issued to the defendants for 13.03.2020. On 13.03.2020, since service was complete, the case was adjourned to 23.03.2020, for filing of the written statement. Since the Presiding Officer was on leave from 23.03.2020 to 27.03.2020, the case was taken up on 21.03.2020 and was further adjourned. On the next date i.e. 23.03.2020, learned counsel for the defendants i.e. petitioners herein and the co-defendant had made appearance through counsel and the case was adjourned for 15.04.2020.

Thereupon, the case was not dealt with, firstly on account of the joining time of the Presiding Officer and thereafter, due to outbreak of Covid and continued like this for several dates, upto 22.09.2020 and as such, written statement was not filed by the petitioners/defendants and on 12.10.2020, the case was adjourned to 02.11.2020, by giving last opportunity for filing the written statement. Further, on 02.11.2020, neither the plaintiff, nor the defendants had made appearance and similar was the position on the subsequent dates i.e. 02.12.2020 and 08.01.2021, when the case was adjourned to 02.02.2021. Even, on 02.02.2021, the respondent/plaintiff had not made appearance and as such, the case was adjourned to 26.02.2021. Thereafter, on 26.02.2021, both the parties have not made appearance and similar was the position on the next dates i.e. 26.03.2021 and 10.05.2021, when the case was adjourned to 20.07.2021. Subsequent to the same, even none had made appearance on behalf of the respondent/plaintiff. Consequently, the petitioners/defendants were proceeded against *ex parte* vide order dated 01.11.2021 and the *ex parte*

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proceedings were ultimately set aside, vide order dated 07.10.2022 and then the case was again put up for the purpose of filing of the written statement.

On 25.11.2022, none had made appearance and thereafter, 2-3 dates were taken for filing of the written statement, at the behest of the petitioner/defendant No.2. Ultimately, the impugned order was passed on 04.01.2023.

Perusal of the zimini orders, as such, reveal that it was by and large, on account of outbreak of Covid that no effective proceedings were conducted by the Courts and precisely, on this account, written statement was not filed.

Considering the aforesaid fact situation and also considering the fact that the case is still at initial stage, where the cross-examination of PW-1 and PW-2 is yet to be conducted, in the interest of justice, the instant revision petition is hereby accepted and the impugned order dated 04.01.2023 (Annexure P-2) is set aside, subject to payment of Rs.10,000/- as costs, which shall be deposited in the “*Poor Patient Fund, PGIMER, Chandigarh*” within a period of ten days from today onwards and only one opportunity shall be given to the petitioners to file the written statement, before learned Lower Court, on the next date of hearing.

The receipt with regard to deposit of costs, shall be filed before the Court concerned, at the time of filing of the written statement.

Accordingly, the instant revision petition stands disposed of.

12.09.2023

Himanshu

(ARCHANA PURI)
JUDGE

Whether speaking/reasoned : Yes

Whether reportable : Yes/No