

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

Sr. No.122

**CR-3383-2023
Date of Decision: 31.05.2023**

MITHU SINGH AND ANOTHER

....Petitioners

Versus

STATE BANK OF INDIA

....Respondent

CORAM: HON'BLE MRS. JUSTICE ARCHANA PURI

**Present:- Mr. Pardeep Kumar Kapila, Advocate,
for the petitioners.**

ARCHANA PURI, J. (ORAL)

Challenge in the present revision petition is to the order dated 17.03.2023 (Annexure P-1) passed by learned Lower Court, whereby the petitioners/defendants have been declared ex parte and their defence has been struck off.

It is submitted by learned counsel for the petitioners that in fact, in the suit for recovery under Section 34 Civil Procedure Code, service of the defendants was effected and their counsel had made appearance before the Court concerned on 20.12.2022 and filed Power of Attorney. Thereupon, the case was further adjourned for filing of written statement for 22.02.2023. On the said date i.e. 22.02.2023, written statement was not filed and the case was adjourned further for 17.03.2023, for filing of written statement, subject to cost of Rs.300/-. On 17.03.2023, the petitioners/defendants did not make

appearance and the cost was also not paid. Thereupon, the petitioners/defendants were proceeded against ex parte and their defence was also struck off and the case was fixed for 20.04.2023. Also, learned counsel submits that only one opportunity may be given to the petitioners to file the written statement.

The submissions made by learned counsel for the petitioners stand substantiated from the zimini orders, which have been placed on record. Perusal of the same reveals that practically, only one effective opportunity was granted to the petitioners/defendants to file the written statement for 22.02.2023. On the subsequent date i.e. 17.03.2023, the impugned order was passed, as the petitioners/defendants did not make appearance.

On query by the Court, it has been disclosed by learned counsel for the petitioners that no ex parte evidence has been recorded, as of yet.

Considering the aforesaid fact situation, in the interest of justice, the impugned order dated 17.03.2023 is hereby set aside with a direction to the petitioners to make appearance before learned Lower Court on the date fixed i.e. 18.07.2023 and file written statement before the Court concerned on the date fixed.

Accordingly, the instant revision petition stands disposed of.

(ARCHANA PURI)
JUDGE

31.05.2023
Himanshu

Whether speaking/reasoned : Yes

Whether reportable : Yes/No