

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CR-3858-2023
Decided on : 17.07.2023

GRAM PANCHAYAT AND OTHERS

. . .Petitioners

Versus

MANDEEP SINGH

. . . Respondent

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Kulwant Singh Dhanora, Advocate
for the petitioners.

SANJAY VASHISTH, J. (Oral)

1. In the present revision petition, challenge has been made to the order dated 02.11.2022 whereby the Court of learned Civil Judge Junior Divison, Phillaur, District Jalandhar (trial Court) has struck off the defence of the defendants No.4 and 7, i.e. petitioners No.2 and 4 herein, and defendant Nos.5 and 6 i.e. petitioner Nos.1 and 3 have been proceeded against ex parte as none had caused appearance on their behalf, in Civil Suit No. CS/506/2022, titled as “*Mandeep Singh vs. Bhupinder Lal and others*”.

2. At the outset, learned counsel for the petitioners submits that he has instructions, not to press the present petition on behalf of petitioner Nos.1 and 3 (defendant Nos.5 and 6). Accordingly, learned counsel prays for withdrawal of the present petition qua petitioner Nos.1 and 3 (defendant

Nos.5 and 6), with liberty to file a fresh petition if necessity so arises at a later stage.

3. Ordered accordingly.

4. Qua petitioner Nos.2 and 4, learned counsel for the petitioners submits that the required written statement by defendant Nos.4 and 7 could not be filed within 90 days' period because of ongoing talks of compromise between the parties.

5. This Court does realize that for deciding the petition, there is no need to call for the respondent(s) for the issue involved therein. Rather, same would be sheer waste of time for no gain to any of the party to the lis. Thus, for deciding the short issue involved, notice to the respondents is dispensed with.

6. Learned counsel for the petitioners also relies upon the order dated 20.05.2022, passed by the coordinate Bench of this Court in CR-1660-2020, titled as, "Paro and others Vs. Mahindo", wherein, in the similar circumstances, to avoid miscarriage of justice, the order of striking off defense was set-aside, and opportunity of filing of written statement was granted. Relevant part of the order dated 20.05.2022, says as under:-

"The provisions of Order 8 Rule 1 of the CPC no doubt are directory in nature, however, at the same time the Courts must exercise their discretion to condone the delay, if any, in filing the written statement after exercising due circumspection and in case there appears to be an attempt on the part of the defendant to engage in dilatory tactics, the Courts should nip the same unhesitatingly.

Adverting to the case in hand, the petitioners were granted four opportunities to file their written statement, however, they failed to do so.

Be that as it may, if the petitioners are not granted one more opportunity to file their written statement, they would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioners to file their written statement.

In the wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which she shall have to incur to defend these proceedings, the impugned order dated 21.11.2019, is set aside. The instant revision petition is allowed in the following terms:-

- 1. The petitioners are granted one last effective opportunity to file their written statement.*
- 2. In the event of default by the petitioners, the case shall not be adjourned any further for filing of their written statement and consequently their defence shall be deemed to be struck off.*
- 3. This, however, shall be subject to payment of costs in the sum of Rs.5,000/- to be paid to the respondent which shall be a condition precedent.”*

7. For deciding the small issue involved in the present petition, to the mind of this Court, all the details are not required to be examined minutely. As per the view point of this Court, Courts cannot function merely on the principle of technicalities or in a specified mechanised manner. Therefore, it would always be fair to impart justice after giving reasonable opportunity to all the parties to plead their stand in writing in the shape of plaint, written statement and replication. Particularly speaking, pleadings are required for the just and proper adjudication of the case in the form of litigation before the Court.

8. Considering the circumstances in its totality, **I hereby deem it**

appropriate to set-aside the impugned order dated 02.11.2022 to the extent of striking off the defense of defendant Nos. 4 and 7 (petitioner Nos.2 and 4 herein), and consequently, grant one more effective opportunity to them for filing their written statement. However, it would be subject to payment of Rs.5,000/- as costs, to be deposited in the benevolent/welfare fund of lawyers, maintained by the Bar Association Phillaur, District Jalandhar.

9. Petition stands **disposed of** accordingly.

(SANJAY VASHISTH)
JUDGE

July 17, 2023

Lavisha

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*