

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.117

Case No. : CR-4337-2023

Date of Decision : August 03, 2023

M/s Arora Fashion and another Petitioners
vs.

M/s Sweety Fabrics Pvt. Ltd. Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Vikas Bali, Advocate
for the petitioners.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to order dated 14.07.2023 (Annexure P-6), passed by learned Civil Judge (Junior Division), Ludhiana (hereinafter referred to as – the Trial Court), whereby defence of the petitioners has been struck off on account of non-filing of written statement.

2. At the outset, learned counsel for the petitioners has submitted that vide order dated 05.05.2023, learned Trial Court allowed the application filed by the petitioners for setting aside the order dated 16.12.2022, whereby the petitioners were proceeded against ex-parte, subject to payment of Rs.1,000/- as cost, with a further direction that the petitioners would be given only two effective opportunities for filing written statement.

3. Learned counsel for the petitioners submits that on the first date, cost was paid. On the second date, it was heavy rain. So, written

statement could not be filed. He further submits that the written statement is ready to be submitted before the Court. The petitioners be given only one opportunity to file the same and it shall be positively filed on the next date fixed before the Trial Court.

4. Heard.

5. Procedure is hand-maid of administration of justice. It is meant for advancement of justice. A party cannot be deprived of its defence merely on the basis of technicalities. If one opportunity is granted to the petitioners to file written statement, no prejudice would be caused to the other party, which cannot be compensated with costs. If notice of this petition is given to the other party, then it may further delay the trial of the case, which would not be even in the interest of the respondent/plaintiff.

6. Accordingly, the present revision petition is allowed. The impugned order dated 14.07.2023 (Annexure P-6), passed by learned Trial Court, is hereby set aside.

7. The petitioners shall positively file the written statement on the next date fixed before the learned Trial Court, subject to payment of R.10,000/- as costs, to be paid by way of Demand Draft in the name of respondent/plaintiff. Even if on that date, the Trial Court is not holding the Court, then also, the petitioners shall file the written statement before the Duty Judge. In case of refusal by the respondent to accept the Demand Draft, the same shall be deposited with the Court.

8. If the respondent/plaintiff is not satisfied with this order, an application can be moved in this regard within 30 days to challenge this order.

9.

However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.
10.

Pending applications, if any, shall stand disposed of along with this judgment.

August 03, 2023
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(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes/No.
Whether reportable ?	Yes/No.