

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

125

CR-5040-2023(O&M)
Date of decision: 28.11.2023

Radhey Radhey Sales Agency and Anr.

....Petitioners

Versus

Mahalaxmi Sales Agency

...Respondent

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Mohan Singla, Advocate for the petitioners.

AMARJOT BHATTI, J.

1. The petitioners have filed civil revision under Article 227 of the Constitution of India for setting aside the impugned order dated 26.08.2022 (Annexure P-4) passed by Nyayadhikari, Gram Nyayalaya, Rania, District Sirsa whereby the defence of the petitioners/defendants was struck off.

2. Learned counsel for the petitioners pointed out that the respondent/plaintiff filed suit for recovery of Rs.86,508/- along with interest. The copy of plaint is Annexure P-1. He was served in this case and ultimately, he filed Vakalatnama and the case was adjourned for filing of written statement on the next date. The written statement could not be filed on the next date of hearing and ultimately his defence was struck off by passing impugned order dated 26.08.2022 which is Annexure P-4. There was no intentional delay in filing the written statement. It is prayed that they may be given one opportunity to file their written statement on

the next date of hearing.

Notice is not given to the respondent/plaintiff as the entire case is based on documents which are already placed on record. In order to avoid further delay in the litigation and unnecessary litigation expenditure, the service of notice to the respondent is dispensed with.

3. I have considered the arguments and have gone through the record. The copy of plaint is placed on record as Annexure P-1. The present petitioners/defendants were served for 28.01.2022 and memo of appearance was filed. The copy of order dated 28.01.2022 is Annexure P-7 and the case was adjourned for 08.04.2022 for filing of power of attorney and written statement. On the next date of hearing, power of attorney was filed and again adjournment was requested for filing written statement and the case was adjourned to 30.04.2022. The copy of order dated 08.04.2022 is Annexure P-3. Again on 30.04.2022, 27.05.2022 the written statement was not filed. The last opportunity was granted and cost was also imposed. Thereafter, the file was taken up as the Presiding Officer was on leave on two occasions and on one occasion 07.04.2023 and 14.04.2023 were declared holidays. Copies of these zimni orders are Annexure P-10 to Annexure P-12. Ultimately, on 26.08.2022 by passing impugned order Annexure P-4 the defence of the petitioners was struck off and the case was straight away fixed for plaintiff evidence. The perusal of plaint indicates that material rights of the present petitioners were involved. There is lapse on the part of petitioners for not filing written statement on time. It is always in the interest of justice that the case is decided on merits after giving due opportunity to both the parties to present their case. Therefore, a lenient view is taken and the civil revision

filed by the petitioners is allowed and the impugned order dated 26.08.2022 is set aside. The learned Presiding Officer of the court concerned is directed to give one effective opportunity to the present petitioners to file their written statement on the next date of hearing.

Accordingly, the present civil revision stands allowed.

Pending application(s), if any, shall also stands disposed of.

28.11.2023

Sunil Devi

(AMARJOT BHATTI)
JUDGE

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