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

CR-4801-2023

Date of Decision:- 14.11.2023

PALAK VERMA AND ANR

...Petitioners

Vs.

BALWINDER KAUR AND ORS

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Jatin, Advocate for Mr. Bhupinder Ghai, Advocate
for the petitioners.

AMARJOT BHATTI, J. (Oral)

1. The petitioners have filed petition under Article 227 of the Constitution of India for setting aside the impugned order dated 14.02.2020, Annexure P-1 passed by learned Civil Judge (Jr. Divn.), Sohna in CS/242/2018 dated 27.08.2018 where the defence of the petitioner for filing of written statement was struck off and subsequent order dated 14.07.2023 (P-2) passed by Civil Judge (Jr. Divn.), Sohna where application for permission to file written statement on behalf of the petitioners was dismissed.

2. Learned counsel for the petitioners argued that the written statement and reply to stay application could not be filed on time due to lack of documents. On 14.02.2020 the application was filed for taking on record the written statement and reply to stay application. The copy of written statement and reply are Annexures P-3 and P-4 respectively.

During this period the petitioners had also filed application under Order 7 Rule 11 CPC read with Section 151 CPC to which reply was filed and the same was dismissed by the trial Court vide order dated 07.08.2019. The case remained pending for service of other defendants. The suit filed by the plaintiff is without merits. The impugned order will adversely effect the rights of the present petitioners. It is prayed that the same may kindly be set aside and they may be given one opportunity to file the written statement and reply to the stay application so that they can contest the suit on merits.

3. I have heard the arguments. The entire case of the present petitioners is based on documents which are already there on the file. No purpose would be served by issuing notice to the respondent/plaintiff Balvinder Kaur as it will result into delay in proceedings of the case and unnecessary litigation expenditure. The perusal of file shows that Balvinder Kaur has filed suit against the present petitioners/defendants seeking declaration and possession with the relief of permanent injunction on the basis of sale deed. The present petitioners are contesting defendants whereas the defendants No.3 to 10 are perfunctory defendants. It is a matter of record that during the pendency of the case the present petitioners also filed application under Order 7 Rule 11 CPC on 13.02.2019 which was declined on 07.08.2019. The present petitioners had appeared before the trial Court and the case was adjourned from time to time for filing of written statement and reply to the stay application and ultimately the defence of the present petitioners was struck off vide impugned order dated 14.02.2020, Annexure P-1, and subsequent application filed by the present petitioners was also declined vide order dated 14.07.2023,

Annexure P-2. It cannot be ignored that the file was adjourned from time to time during the period of pandemic of Covid-19 i.e. from 18.03.2020 to 23.11.2020. Thereafter, the case was still pending for service of performa defendants. When again application was filed for taking on record the written statement and reply which was declined vide order dated 14.07.2023. There is delay on the part of the present petitioners in filing their written statement and reply to stay application. However, considering the nature of litigation and in the interest of justice a lenient view is taken. Both the parties are required to present their case so that it is decided by the trial Court on merits. The respondents/plaintiff Balvinder Kaur can be compensated by imposing costs.

4. Therefore, the Civil Revision filed by the present petitioners is accepted and the impugned order dated 14.02.2020, Annexure P-1 and subsequent order dated 14.07.2023, Annexure P-2, are set aside and the trial Court is directed to give one effective opportunity to the present petitioner to file written statement and reply subject to payment of costs of Rs.15,000/- in favour of Balvinder Kaur respondent-plaintiff. Learned counsel for the petitioners pointed out that the main case is pending for 15.11.2023 which is a short date. Therefore, the learned trial Court is directed to give one more reasonable effective opportunity to both the petitioners to file their written statement.

5. The Civil Revision filed by the present petitioners stands disposed of accordingly. Pending application (s), if any, also stands disposed of.

14.11.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No