

131.

2023:PHHC:138315

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

CR-5769-2023

Date of decision: 30.10.2023

UNIQUE CAFE AND ANR

.... Petitioners

Versus

HARVINDER SINGH AND ANR

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Rahi Mehra, Advocate, for the petitioners.

GURBIR SINGH, J. (Oral)

Present revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 21.08.2023 passed by learned Civil Judge (Junior Division), Amritsar, in case titled as *Harvinder Singh Versus Unique Cafe Bar*, whereby the defence of the petitioner was struck off.

It is contended that the impugned order has been passed without affording a proper opportunity to the petitioners and without examining the previous orders and, further to grant an opportunity to file written statement.

Learned counsel for the petitioners has relied upon photocopies of zimini orders as passed by the trial Court. The same are taken on record.

Learned counsel for the petitioners submits that the petitioner was not aware about the pendency of the petition, so the petitioner did not

appear in the Court on 18.11.2022 and was proceeded against ex-parte. On 02.01.2023, on the statement of respondent No.2, the ex-parte proceedings were set aside. Thereafter, the petitioner moved an application for dismissal of the petition, which was dismissed vide order dated 19.07.2023 and the case was adjourned. It is submitted that on 11.08.2023, though counsel for the petitioners was not present, but the counsel for petitioners was marked present in the interim order. Adjournment was sought that counsel for the petitioners was not present and case was adjourned to 21.08.2023. On that day, written statement could not be filed since certain documents were to be collected. Learned counsel further submits that if only one opportunity is granted to the petitioners for filing written statement subject to payment of costs, then written statement would be positively filed.

I have heard the submissions of learned counsel for the petitioners.

Although there is inaction on the part of the petitioners and there is some delay on the part of the petitioners but keeping in view the fact that the procedure is handmaid to the administration of justice and it is meant for advancement of justice; the parties should not be non-suited due to procedural lapses and if one opportunity is granted to the petitioners to file written statement, then no prejudice would be caused to the other party which can be compensated with costs.

At this stage, if notice of the petition is given to the respondents, it may burden the respondents financially and it may further delay the disposal of the rent petition, which is pending for 01.11.2023.

So, in the interest of justice, this petition is allowed. One opportunity is granted to the petitioners to file written statement on payment of costs of Rs.20,000/- out of which, Rs.5,000/- to be deposited in the account of District Legal Services Authority and the remaining Rs.15,000/- to be paid to the respondents. In case of default, the order shall automatically stand vacated.

If the respondents are not satisfied with this order, they can move an application for recalling of this order within 30 days.

(GURBIR SINGH)
JUDGE

October 30, 2023
sanjeev

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No