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

CR-6024-2023 (O&M)

Date of Decision:- 08.11.2023

ASHWANI KUMAR AND ANOTHER

...Petitioners

Vs.

HARPHOOL SINGH AND OTHERS

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. S.K. Verma, Advocate for the petitioners.

AMARJOT BHATTI, J. (Oral)**CM-20192-CII-2023**

This is an application filed by the petitioners for permission to place on record the zimni/interim orders as Annexure P-8 to P-18.

For the reasons mentioned therein, the application is allowed and the accompanied documents are taken on record.

Main case.

1. The petitioners / defendants No.3 and 5 have filed civil revision petition under Article 227 of the Constitution of India read with Section 151 CPC for setting aside the order dated 25.05.2023, Annexure P-6, passed by Civil Judge (Jr. Divn.), Jind vide which the defence of the present petitioners has been struck off.

2. Learned counsel for the petitioners, during the course of the arguments, conceded that the learned trial Court had given sufficient opportunities to file written statement and even then the same could not be filed due to unavoidable circumstances. He has placed on record copy of plaint, Annexure P-1, in which Harphool Singh has filed suit against as many as 21 defendants for partition and separate possession along with permanent injunction. The material rights of the present petitioners are involved. Therefore, taking a lenient view the present petitioners may be granted one opportunity to file their written statement subject to imposing reasonable costs.

3. I have considered the arguments. The factual position is clear from the documents placed on record. Therefore, no purpose would be served by issuing notice to the respondent/plaintiff Harphool Singh. The perusal of record shows that the service of respondent No.3 Ashwani Kumar was effected as per zimni order dated 12.04.2021 and Sh. S.K.Garg, Advocate had filed memo of appearance on his behalf whereas service of Asha Rani defendant No.5 was effected subsequently as per zimni order dated 23.08.2021 and power of attorney was filed on behalf of both the petitioners by Sh. S.K. Garg, Advocate. Perusal of subsequent interlocutory orders, Annexure P-13 to P-18 as well as impugned order dated 25.05.2023 further indicate that they were granted as many as 10 effective opportunities to file their written statement but they failed and ultimately their defence was struck off vide impugned order dated 25.05.2023, Annexure P-6. At the same time, it cannot be ignored that the case is still pending for service of other defendants.

4. Considering the status of trial as well as nature of litigation, lenient view is taken and the present petitioners are granted one opportunity to file their respective written statement before the trial Court subject to payment of costs of Rs.10,000/- each to be paid to the plaintiff. Learned counsel for the petitioners pointed out that the main case is pending for 09.11.2023 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.

08.11.2023

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(AMARJOT BHATTI)
JUDGE

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