

CR-6217-2023

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

CR-6217-2023

Date of Decision:- 17.10.2023

Vipin Kumar Sharma and another

...Petitioners

Vs.

Sachin and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Deep Singh Saini, Advocate
for the petitioners.

AMARJOT BHATTI, J. (Oral)

1. The present petitioners/defendants have filed petition under Article 227 of the Constitution of India read with Section 151 C.P.C. for setting aside the impugned order dated 29.08.2023 (Annexure P-6) passed by learned Civil Judge (Junior Division), Panipat whereby the defendants were precluded from filing written statement and reply to stay application.
2. The learned counsel for the petitioners/defendants pointed out that suit for permanent injunction was filed by Sachin – respondent No. 1/plaintiff. The copy of plaint is Annexure P-1. The notice was issued to the defendants for the first time vide zimni order dated 12.04.2023, Annexure P-2. On the next date i.e. 26.04.2023, Annexure P-3, notice was not issued for want of necessary compliance and it was again ordered to be issued for 10.05.2023. On this date, the petitioners/defendants No. 1 and 2 appeared through their counsel Mr. Ravinder Goel, Advocate and the case was adjourned for filing of written statement on 29.07.2023. Copy of zimni order dated 10.05.2023 is Annexure P-4. On 29.07.2023, the written

statement and reply to stay application was not filed and it was again adjourned for 29.08.2023. The copy of order is Annexure P-5. Ultimately, on 29.08.2023, by passing impugned order Annexure P-6, the defendants No. 1 to 4 were precluded from filing written statement and reply to stay application and the case was adjourned for plaintiff evidence. The learned counsel for the petitioners argued that the case is at initial stage. He may be granted one opportunity to file written statement and reply to stay application.

3. I have considered the arguments and have gone through the record. The factual position is not disputed by the learned counsel for petitioners/defendants No. 1 and 2. All the relevant interlocutory orders are placed on record. No purpose would be served by giving notice to the respondent No. 1/plaintiff as it will result into further unnecessary delay. The record clearly indicates that the present petitioners i.e. defendants No. 1 and 2 appeared through their counsel for the first time on 10.05.2023. They were granted two effective opportunities to file their written statement and reply to stay application and thereafter, they were precluded from filing their written statement and reply to stay application. I have gone through the impugned order dated 29.08.2023. The learned Civil Judge (Junior Division), Panipat has passed the impugned order by granting two opportunities. The learned counsel for the petitioners/defendants No. 1 and 2 have failed to give any justification as to why written statement and reply to stay application was not filed on two dates. However, it cannot be ignored that it is a suit for permanent injunction. The rights of the present petitioners/defendants No. 1 and 2 are involved. It is in the interest of justice that the parties are to be heard for proper adjudication of the case on merits. Therefore, taking a lenient view,

the impugned order dated 29.08.2023 is set aside and the present petitioners are given one opportunity to file their written statement as well as reply to stay application on the next date of hearing i.e. 29.02.2024, already fixed by the trial Court.

The civil revision is accordingly, disposed of.

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

17.10.2023
lalit

(AMARJOT BHATTI)
JUDGE

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