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

CR-6347-2023

Date of Decision:- 15.12.2023

SUHINDER @ SHAMSHER SINGH AND OTHERS

...Petitioners

Vs.

NAVINDER @ NAMENDER AND OTHERS

...Respondents

CORAM:-HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. Ravi Singh, Advocate for the petitioners.

AMARJOT BHATTI, J. (Oral)

1. The petitioners Suhinder @ Shamsher Singh and others have filed the instant civil revision under Article 227 of the Constitution of India for setting aside the order dated 20.01.2020 passed by learned Civil Judge (Jr. Divn.), Hansi whereby the defence of the petitioners/defendant Nos.4 to 11 was struck off.

2. Learned counsel for the petitioners pointed out that the impugned order has been passed by learned Civil Judge (Jr. Divn.), Hansi by alleging that mandatory period of 90 days for filing of written statement has been passed, therefore, the defence was struck off. It is settled principle of law that the provision for filing of written statement within 90 days is directory and not mandatory. The perusal of impugned order dated 20.01.2020 indicates that on that day the case was fixed for filing of replication and at that moment it came to the notice of learned Civil Judge (Jr. Divn.), Hansi that the written statement was not filed by defendant Nos.4 to 11 and on this, on the lapse of 90 days, their defence was struck

off and the case was adjourned for arguments on stay application and the interim order was continued. It is conceded that there is lapse on the part of present petitioners for not filing the written statement earlier. It is prayed that the case is still at initial stage. They may be granted one opportunity to file their written statement by imposing reasonable costs.

3. I have considered the arguments and have gone through the record. As per the zimni order dated 03.08.2019, (P-3), counsel filed memo of appearance on behalf of the petitioners/defendant Nos.4 to 11 and the power of attorney was filed as per zimni order dated 19.10.2019 which is Annexure P-5. Thereafter, the case was adjourned to 25.11.2019. On that day, written statement and reply to stay application was filed on behalf of defendant Nos.1 to 3 and straightway the case was fixed for filing of replication, if any, and framing of issues. Thereafter, on the next date i.e. 20.01.2020 the impugned order was passed. The perusal of these interlocutory orders show that inadvertently the case was not fixed for filing of written statement by defendant Nos.4 to 11. It cannot be ignored that the present civil revision has been filed after a lapse of more than 3 years. As per the latest zimni order dated 09.10.2023, the case is adjourned for 15.01.2024 for arguments on stay application and status quo order has been extended till then. Therefore, the case is still at initial stage. The present suit has been filed against the State of Haryana and others i.e. the defendant Nos.1 to 3 who are contesting the case and the defendant Nos.4 to 11 are the present petitioners whose defence has been struck off.

4. Considering the nature of litigation, it is appropriate that the present petitioners are also given an opportunity to file their written statement as the case is at initial stage. Therefore, the civil revision

preferred by the present petitioners is accepted by setting aside the impugned order dated 20.01.2020 and the learned trial Court is directed to give only one opportunity to the present petitioners to file their written statement on the next date subject to payment of costs of Rs.15,000/- to the plaintiffs.

The Civil Revision is, accordingly, disposed of.

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

15.12.2023

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(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No