

125.

2023:PHHC:147090

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

CR-6801-2023

Date of decision: 20.11.2023

RAVINDER KAUR AND ANOTHER

.... Petitioners

Versus

RAM KUMAR SHARMA

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Sandeep Arora, Advocate, for the petitioners.

GURBIR SINGH, J. (Oral)

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 20.07.2023 passed by learned Civil Judge (Junior Division), Jalandhar, whereby on account of non-filing written statement, the defence of the petitioners-defendants has been struck off.

2. The brief facts, as culled out from the petition, are that the respondent-plaintiff, namely, Ram Kumar Sharma filed a civil suit for specific performance of agreement to sell dated 17.03.2020 executed by the petitioners-defendants. Along with the suit, an application for restraining the petitioners-defendants from alienating the suit property was also filed. The petitioners-defendants appeared and the case was adjourned on various dates for filing written statement. However, vide order dated 20.07.2023, the trial Court struck off their defence by observing that despite availing several

effective opportunities including last opportunity, they failed to file written statement and there is no justification for adjourning the case for the said purpose.

3. Learned counsel for the petitioners-defendants submits that for the just decision of the case, it is necessary to file written statement. The respondent-plaintiff has yet to adduce his evidence and no prejudice would be caused to him in case the petitioners are allowed to file written statement. By way of present revision petition, the petitioners-defendants are seeking one more effective opportunity to file written statement.

4. Learned counsel for the petitioners-defendants further submits that the petitioners-defendants would be satisfied if one opportunity is granted to them to file written statement and they would not seek any other opportunity to lead evidence. The case is stated to be fixed for hearing on 14.12.2023.

5. I have heard the submissions of learned counsel for the petitioners and have gone through the paper book.

6. Keeping in view the fact that the procedure is handmaid to the administration of justice and it is meant for advancement of justice; the petitioners should not be non-suited merely on procedural technicalities.

7. If notice of this petition is given to the respondent-plaintiff, then it may linger on the case and may cause financial burden on respondent.

8. So, in the interest of justice, present petition is disposed of with a direction to the trial Court to give one opportunity to the petitioners-defendants to file written statement but subject to payment of costs of Rs.20,000/- i.e. Rs.5,000/- to be deposited with the concerned District Legal

Services Authority and Rs.15,000/- to be paid to the respondent-plaintiff.

The written statement shall be filed by the petitioners-defendants on or before 14.12.2023 i.e. the date fixed before the trial Court.

9. If the respondent-plaintiff is not satisfied with this order, he can move an application for recalling of this order within 30 days.

(GURBIR SINGH)
JUDGE

November 20, 2023

sanjeev

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No