

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.122

Case No. : C. R. No. 7181 of 2023

Date of Decision : November 30, 2023

Gulshan Kumar and others Petitioners
vs.

Mast Ram Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Avtar Singh Bhatti, Advocate
for the petitioners.

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GURBIR SINGH, J. :

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to order dated 11.10.2023 (Annexure P-5), passed by learned Civil Judge (Junior Division), Hoshiarpur (hereinafter referred to as – the Trial Court), whereby defence of the petitioners has been struck off on account of non-filing of written statement.

2. The brief facts, as culled out from the paper-book, are that the respondent/plaintiff Mast Ram has filed suit for eviction against the petitioners/defendants under Sections 4, 5 and 23 of the Maintenance and Welfare of Parents and Senior Citizen Act 2007 and the Punjab Maintenance and Welfare of Parents and Senior Citizen Rules 2012. Petitioner no.1 is step son of the respondent/plaintiff and petitioner no.2 is wife of petitioner no.1, whereas petitioner no.3 is the second wife of the respondent/plaintiff.

A bare perusal of the paper-book reveals that there are allegations of

harassment caused to the respondent by the petitioners. The dispute relates to a house owned by the respondent and the petitioners are occupying the same.

3. Learned counsel for the petitioners submits that a detailed written statement was prepared but could not be filed within stipulated period as the talks of compromise were going on between the parties. The learned Trial Court, in a mechanical manner, struck off the defence of the petitioners without giving them sufficient opportunity to file the written statement.

4. Heard.

5. No doubt, the Courts are always of the view that a party should not be deprived of its defence merely on the basis of technicalities. However, the contents of impugned order dated 11.10.2023 clearly show that despite availing sufficient opportunities, defendants failed to file written statement. The suit was filed by the respondent on 27.05.2022, when it was heard for the very first time. The defence of the petitioners was struck off on 11.10.2023 i.e. after more than 01 year and 04 months. So, a Court cannot wait for a party to file one's defence. Moreover, there is no proof on the file that alleged talks regarding compromise were going on between the parties during the said period which caused delay in filing the written statement. A party is required to file written statement in a reasonable time. Speedy trial is the right of litigant. The opposite party, by its conduct, cannot deprive the other party his right of speedy trial. A party cannot take the Court for a ride and on its own, cannot prolong the case without any plausible reason. Our judiciary stands as a ray of hope for those who seek

justice. If a party does not file written statement, with the aim of defeating the right of other party, who is an old man and is seeking relief against his own wife, step son and wife of step son, then the Court is justified to struck off the defence by strictly following the Order 8 Rule 1 CPC.

6. Accordingly, I do not find any error in the order dated 11.10.2023 passed by learned Trial Court. The said order has been passed in accordance with law. So, there is no merit in the present revision petition and the same is hereby dismissed in limine.

7. However, nothing contained herein above shall be construed as an expression of opinion on the merits of the case.

8. Pending applications, if any, shall stand disposed of along with this judgment.

November 30, 2023
monika

(GURBIR SINGH)
JUDGE

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