

124.

2024:PHHC:035374

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

Civil Revision No.1522 of 2024

Date of decision: 12.03.2024

Sweety Arora and others

.... Petitioners

Versus

Bhupinder Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Parminder Singh Kanwar, Advocate, for the petitioners.

GURBIR SINGH, J.

1. Challenge in this revision petition filed under Article 227 of the Constitution of India read with Section 151 of CPC is to the order dated 18.09.2023 (Annexure P-3) passed by learned Additional Civil Judge (Senior Division), Tarn Taran, vide which, defence of the petitioners-defendants No.28 to 30 has been struck off on account of non-filing of written statement.

2. Brief facts of the case are that respondent Nos.1 to 3-plaintiffs filed a suit for grant of preliminary decree of separate possession through partition by metes and bounds in respect of site, as mentioned in the head note of the plaint. Though upon notice, the petitioners-defendants appeared but they failed to file written statement. Vide impugned order dated 18.09.2023, the trial Court struck off the defence of the petitioners on the ground that after lapse of 90 days period, written statement was not filed by them.

3. Learned counsel for the petitioners would submit that it was on account of some unavoidable circumstances, written statement was not filed. The service of all the defendants is not yet effected. Petitioners seek one opportunity to file written statement.

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

5. The case is at the initial stage and is fixed for 08.04.2024 for filing written statement of other defendants. Although there is some inaction on the part of the petitioners but keeping in view that procedure is handmaid to the administration of justice and it is meant for advancement of justice, if one opportunity is given to the petitioners to file written statement, no prejudice would be caused to the respondents-plaintiffs. So, the impugned order deserves to be set aside.

6. If notice of this petition is given to the respondents-plaintiffs, then it may cause financial burden upon them and may further linger on the decision of the case.

7. In view of above discussion, the order dated 18.09.2023 (Annexure P-3) is hereby set aside and one opportunity is granted to the petitioners-defendants No.28 to 30 to file written statement, however, that would be subject to payment of costs of Rs.5,000/- to be deposited with the Punjab and Haryana High Court Employees Welfare Association Fund having Account No.37167209613 in State Bank of India, High Court Branch, Chandigarh, IFSC Code No.SBIN0050306. The petitioners-

defendants No.28 to 30 shall file the written statement on the date so fixed before the trial Court. In case of default, this order shall automatically stand vacated.

8. Present petition stands disposed of accordingly.

9. If respondents-plaintiffs are not satisfied with this order, they are at liberty to file an application within 30 days for recalling this order.

(GURBIR SINGH)
JUDGE

March 12, 2024
sanjeev

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