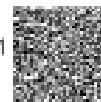


**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

129

2024.PHHC:069041



CR-3120-2023 (O&M)
Date of decision: 16.05.2024

DHARAMPAL SINGH AND ANR.

..Petitioners

Versus

CHAMKAUR SINGH

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajat Arora, Advocate for the petitioner.

Mr. Janak Singh Bhinder, Advocate for respondent.

ANIL KSHETARPAL, J(Oral)

1. The plaintiff's suit for grant of decree of permanent injunction restraining the defendants from interfering in his possession is pending before the trial Court. The defendants were proceeded against ex parte on 30.05.2022, which on an application filed by the petitioners (defendants) was set aside on 03.01.2023, subject to payment of Rs.1,000/- as costs and the case was adjourned to 24.01.2023 for filing written statement. However, on 24.01.2023, neither the defendants nor their counsel appeared and they were again proceeded ex parte. On 23.02.2023, fresh application for setting aside ex parte order was filed, which has been dismissed by the trial Court on the ground that the defendants have not come forward to pay the costs nor filed the written statement.

2. The learned counsel representing the petitioners submits that defendants paid the cost to their counsel for depositing in the Court, however, their counsel did not appear. He submits that the petitioner should be granted one more opportunity to pay the costs in order to enable them to contest the case.



3. Per contra, the learned counsel representing the respondent submits that the defendants are delaying the disposal of the case and they are not intentionally coming forward to contest the case.
4. This Court has considered the submissions.
5. The Courts are expected to make sincere endeavor for deciding the disputes on merits instead of in defaults. The defendants may be negligent in defending the suit, however, they have already suffered. The defendants are ready to compensate the plaintiff.
6. On the other hand, the learned counsel representing the respondent submits that testimony of seven plaintiff's evidence has been recorded.
7. After having considered the matter, this Court is of the opinion that the petitioner should be granted one more opportunity to contest the case on merits.
8. Hence, the impugned order dated 13.03.2023 and 30.05.2022, are set aside, subject to payment of cost of Rs.10,000/-, which shall be paid to the plaintiff by way of demand draft within a period of one month.
9. If the cost is paid, the petitioner shall be entitled to file written statement within next 15 days from the date of payment of cost and the Court will proceed with the case.
10. With these observations the present petition is disposed of.
11. All the pending miscellaneous applications, if any, are also disposed of.

May 16th, 2024

(ANIL KSHETARPAL)
JUDGE

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