

**CR-5496-2024****-1-****IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****(120)****CR-5496-2024****Date of Decision: - 23.09.2024****Lajpat Rai and others****....Petitioners****Versus****Tarsem Chand and others****.....Respondents****CORAM : HON'BLE MR. JUSTICE VIKAS BAHL**

Present:- Mr. Rajesh Punj, Advocate,
for the petitioners.

**********VIKAS BAHL, J. (ORAL)**

1. Present revision petition has been filed under Article 227 of the Constitution of India for quashing of the order dated 19.01.2024 (Annexure P-1) passed by the Additional Civil Judge (Senior Division), Kurukshetra, vide which the defence of the petitioners, who are defendants No.4, 5, 7, 9, 10 and 17, has been struck off.

2. Learned counsel for the petitioners has submitted that in the present case, respondent No.1 is a debtor and has filed a self petition for his adjudication as an insolvent under Section 7 of the Provincial Insolvency Act, 1920. It is further submitted that on 10.07.2024, it was observed by the Civil Judge (Junior Division), Kurukshetra that the Court did not have any power or jurisdiction to entertain the petition and accordingly, the case was referred to the District & Sessions Judge,

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Kurushetra for 18.07.2024 and the case is now pending for 08.10.2024 and the issues have not been framed as yet and thus, the case is at initial stage. It is stated that a perusal of the zimni orders would show that although the petitioners had taken dates for filing the written statement, but on the said dates no effective hearing had taken place as fresh notices were being issued to various defendants for their service. It is argued that a perusal of the order dated 05.12.2022 would show that notices could not be issued to some of the defendants for want of copy and a perusal of the order dated 11.05.2023 would also show that notices could not be issued to some of the defendants for want of copy of plaint and on 28.09.2023 notice could not be issued to defendants No.15 and 27 for want of registered cover and copy etc. and to a similar effect is the order dated 16.12.2023 and has thus submitted that although the petitioners also did not file the written statement on the said dates, but even the plaintiff had not done the needful. It is stated that in the said circumstances, the petitioners be granted one opportunity to file the written statement on or before 08.10.2024, which is stated to be the next date of hearing and for the delay caused on account of the petitioners act, they are ready to pay Rs.15,000/- to the plaintiff as cost.

3. Keeping in view the above-said facts and circumstances, this Court is of the opinion that the petitioners should be granted one opportunity to file the written statement and accordingly, the present revision petition is partly allowed and the impugned order dated 19.01.2024 (Annexure P-1) to the extent that defence of defendants No.4,

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5, 7, 9, 10 and 17 has been struck off, is set aside and the petitioners are granted one opportunity to file their written statement on or before 08.10.2024, which is stated to be the next date of hearing before the trial Court and the same would be subject to the petitioners depositing the cost of Rs.15,000/- on or before 08.10.2024. On depositing the said amount, the same would be released by the trial Court to the respondent-plaintiff.

4. It is made clear that in case the cost is not deposited by the petitioners till the said date, the present revision petition would be deemed to have been dismissed.

5. It would be relevant to mention that notice of motion has not been issued to respondent No.1-plaintiff as the issuance of any notice would further delay the proceedings in the suit and also entail expenses for respondent No.1 in order to defend the present petition. However, it would be open to respondent No.1 to move an application for recalling the present order in case any of the statements made before this Court is found to be false/incorrect.

September 23, 2024
naresh.k

(VIKAS BAHL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No