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

CR-6710-2024

Date of decision: 19.11.2024

Jatinder Kumar @ Jatinder Gupta and others

...Petitioners

Versus

Raj Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Sandeep Sharma, Advocate and
Mr. Abhinav Singh, Advocate for the petitioners.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the impugned order dated 10.01.2023 (Annexure P-3) passed by the Civil Judge (Junior Division), District Amritsar in Civil Suit bearing No.CS/1570/2022 titled as “Raj Kumar Vs. Jatinder Kumar etc.” vide which the defence of the petitioners/defendants has been struck off.

2. Learned counsel for the petitioners has submitted that in the present case, no witness of the plaintiff has been examined as of yet and after passing of the order dated 10.01.2023, the case was adjourned to 27.03.2023, on which date, the respondent-plaintiff had filed an application under Section 65 of the Indian Evidence Act. It is submitted that the said application has been allowed vide order dated 11.11.2024 by the Civil



Judge (Junior Division), Amritsar and the case has been adjourned to 29.01.2025 for leading the said secondary evidence and also for the evidence of the plaintiff. It is submitted that in case, the petitioners are not granted any opportunity to file the written statement and to defend their case, then, irreparable loss would be caused to them. It is also submitted that for the delay caused in the proceedings and also the hardship suffered on the said account to the respondent, the petitioners are ready to compensate respondent with adequate costs. It has been fairly conceded that even with respect to the application under Section 65 of the Indian Evidence Act, several dates were taken by the counsel for the petitioners to file reply to the said application. The zimni orders from 27.03.2023 to 11.11.2024 have been handed over in the Court during the course of arguments which have been taken on record and are marked as Mark "A".

3. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that one final opportunity should be granted to the petitioners to file the written statement and accordingly, the present revision petition is partly allowed and the impugned order dated 10.01.2023 to the extent that defence of the petitioners has been struck off is set aside with the following observations/directions:-

- i) The petitioners would be at liberty to file the written statement within a period of two weeks from today.
- ii) The same would be subject to the petitioners depositing costs of Rs.40,000/- before the trial Court within the aforesaid period of two weeks from today which amount would be released by the trial Court to respondent/plaintiff. In the present case, heavy cost has been



imposed after taking into consideration the fact that as per the zimni orders, in spite of five dates, written statement was not filed and even in the application under Section 65 of the Indian Evidence Act filed by the respondent/plaintiff, several dates were taken by the petitioners/defendants to file reply.

- iii) It is made clear that in case the written statement is not filed within the aforesaid period and the abovesaid cost is not deposited before the trial Court within the aforesaid period, then, the present revision petition would be deemed to have been dismissed.
- iv) Since, it is the case of the petitioners that no witness of the plaintiff has been examined as of yet, thus, even in case, any witness of the plaintiff has been examined, then, the present petitioners would not have any right to cross-examine such witness who has already been examined.

4. In the present case, no notice is being issued to the respondent, as issuance of notice to him would further delay the proceedings and would also entail expenses for the respondent to defend the present revision petition. However, it would be open to the respondent to move an application for recalling of the present order in case, any of the statement made before this Court is found to be false/incorrect.

19.11.2024
Pawan

(VIKAS BAHL)
JUDGE

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