

Swaran Setia and others

...Petitioners

Versus

Swaran Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Jai Vir Yadav, Senior Advocate with
Ms. Parul, Advocate
for the petitioners.

GURBIR SINGH, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India seeking quashing of the impugned order dated 01.12.2023 (Annexure P-6) passed by the Ld. Civil Judge (Junior Division), Gidderbaha, whereby petitioners have not been allowed to file written statement.

2. Learned Senior Counsel for the petitioners submits that counsel for the plaintiffs/respondents made a statement dated 02.11.2023 before the learned trial Court, which is reproduced as under:-

“Stated that if the application under Order 9 Rule 7 CPC dated 16.11.2022, filed by defendants No.5 to 7 is allowed subject to costs by giving one opportunity for further proceedings then we have no objection. Similarly, as the plaintiff is more than 74 years of age and has undergone Open Heart Surgery, then to dispose of the case early if the application given by defendants No.1 & 2 under Order 14 Rule 5 CPC is allowed then we have no objection.”

3. Learned Senior Counsel for the petitioners further submits that the petitioners have already joined the proceedings but did not allow any

opportunity to file the written statement. He further submits that the suit is for separate possession by way of partition and he would be satisfied if one opportunity is granted to the petitioners to file the written statement. The next date before the trial Court is 12.02.2024.

4. If notice is given to the other side it may further delay the disposal of case and may further put financial burden upon respondents so notice is not being given to respondents/plaintiffs.

5. Keeping in view the fact that even counsel for the plaintiff did not raise any objection if ex parte proceedings were set aside and the Court below did not even give one opportunity to file the written statement. Order dated 01.12.2023 (Annexure P-6) passed by the Ld. Civil Judge (Junior Division), Gidderbaha is hereby set aside and this petition is disposed of with a direction to the trial Court to give one opportunity to the petitioners to file written statement on the next date but subject to payment of costs of Rs.3,000/- to be paid to the opposite party.

6. In case of default, this order shall stand automatically vacated.

7. If the respondents are not satisfied with this order, they can move an application for recalling of this order within 30 days.

8. Petition stands disposed of.

08.01.2024

Parveen kumar

**(GURBIR SINGH)
JUDGE**

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