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

CR-5489-2023

Date of decision: 17.01.2025

Sub Divisional Officer and another

...Petitioners

Versus

Prem Singh

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Arvind Seth, Advocate for the petitioners.

Mr. B.S. Bairagi, Advocate for the respondent.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for quashing/setting aside the order dated 17.07.2019 (Annexure P-1) vide which the petitioners/defendant Nos.1 and 2 were proceeded against ex-parte and also order dated 11.07.2022 (Annexure P-2) passed by the Additional Civil Judge (Senior Division), Sonapat, vide which an application filed by the petitioners/defendant Nos.1 and 2 for setting aside the ex-parte order dated 17.07.2019 has been dismissed.

2. Learned counsel for the petitioners has submitted that the respondent had filed a suit seeking declaration that checking report dated 11.07.2018 and notices dated 16.07.2018 were null and void and had further prayed for restraining the present petitioners from effecting the recovery of



the penalty amount from the respondent-plaintiff. It is submitted that in the said case, there is interim order in favour of the respondent-plaintiff and that the petitioners had appeared and filed their written statement. It is submitted that on 17.07.2019, the present petitioners had instructed their counsel to attend the case as the competent authority of the petitioners were out of station for official work but subsequently the petitioners learnt that their counsel did not attend the case as it was stated by him that he was busy in conducting the sessions trial and on account of his non-appearance, the petitioners were proceeded ex-parte. It is further submitted that the application filed by the petitioners for setting aside the ex-parte order had also been dismissed vide impugned order dated 11.07.2022 which is also impugned in the present case. It is submitted that in case the said orders are not set aside and the petitioners are not permitted to contest the case, then, irreparable loss would be caused to them.

3. Learned counsel for the respondent, on the other hand, has submitted that the petitioners were aware of the proceedings and had not appeared on 17.07.2019 and even thereafter had filed an application for setting aside the said ex-parte order after much delay. It is however submitted that in case the petitioners are permitted to join the proceedings, they should be burdened with heavy costs so as to compensate the respondent-plaintiff.

4. Learned counsel for the petitioners, in rebuttal, has submitted that the petitioners are ready to pay heavy costs in order to compensate the respondent-plaintiff.

5. Keeping in view the abovesaid facts and circumstances and fair



stand taken by learned counsel for the petitioners as well as by the learned counsel appearing on behalf of respondent, the present revision petition is partly allowed and impugned orders dated 17.07.2019 and 11.07.2022 are set aside and the petitioners are permitted to contest the case from the stage they were proceeded against ex-parte, but the same would be subject to the payment of costs of Rs.30,000/- which would be deposited by the petitioners within a period of three weeks from today with the trial Court and the trial Court would release the said amount to the respondent-plaintiff.

6. It is made clear that in case the said amount is not deposited within the aforesaid period then the present revision petition would be deemed to have been dismissed.

17.01.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No