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

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CR-6690-2024

Date of decision:28.01.2025

AMAN SINGH ALIAS AMANDEEP KAMBOJ AND ANR

...PETITIONERS

VS.

BRAJ BHUSHAN AND ANR

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Ashutosh Gupta, Advocate
for the petitioners.

SUVIR SEHGAL, J.

1. By way of instant petition filed under Article 227 of the Constitution of India, petitioners have approached this Court for setting aside orders dated 22.08.2022 and 22.02.2024, Annexures P-3 and P-5, respectively, passed by the learned Civil Judge (Senior Division), Patiala, in civil suit No.865 of 2019 titled as Braj Bhushan Vs. Aman Singh, whereby defence of the petitioners/defendants has been struck off.

2. Mr. Ashutosh Gupta, counsel for the petitioners states that the respondents filed a suit for recovery of Rs.15,03,107/- against the petitioners, who were never served because their incorrect address had been supplied. He submits that due to the outbreak of the contagion in March, 2020, the Courts were not functioning regularly and summons issued to

petitioner No.1 were received back unserved by the Court with the report



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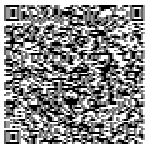
that he is lodged in jail as is reflected from interim order dated 05.04.2021 passed by the Trial Court. He submits that upon being served, petitioners appeared through a counsel on 22.10.2021, but their counsel did not diligently pursue the case as a result of which their defence was struck off vide impugned order, Annexure P-3, and an application for recalling the order was dismissed vide impugned order, Annexure P-5. He has sought one opportunity to file their written statement subject to deposit of any reasonable cost as deemed appropriate by this Court.

3. As per office report, both the respondents have been served. Mr. Jasinder Singh Sekhon, Advocate has put in appearance on behalf of respondent No.1 and has filed Memorandum of Appearance, which is taken on record. He has opposed the petition by asserting that not only are the petitioners negligent in filing the written statement, but their entire intention is to delay the proceedings.

4. I have heard counsel for the parties and considered their respective submissions.

5. It is evident from the perusal of the paper-book that the petitioners have been remiss and despite grant of sufficient opportunities, they have not filed the written statement. By order dated 16.05.2022, Trial Court granted them last opportunity subject to deposit of Rs.200/- as cost, but neither the cost was deposited nor the response was filed resulting in the passing of the impugned order.

6. Be that as it may, keeping in view the fact that in case, petitioners are not allowed to contest the suit, they will be seriously prejudiced. This Court is of the opinion that they deserve to be granted an



opportunity for filing the written statement. The interest of the respondents can be secured by imposing adequate compensatory cost upon the petitioners.

7. In view of the above, petition is disposed of with a direction to the Trial Court to grant one opportunity to the petitioners to file their written statement(s), which will be subject to deposit of cost of Rs.25,000/- with the Punjab and Haryana High Court Bar Association Employees Welfare Association. The deposit of cost will be a condition precedent to the grant of opportunity to the petitioners. Written statement be filed by the petitioners on or before 28.02.2025.

28.01.2025
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(SUVIR SEHGAL)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No