

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****203****CR-964-2024 (O&M)****Date of decision: 13.10.2025****Swaranjit Kaur @ Sawarnjit Kaur and another****...Petitioner(s)****Vs.****Gurpreet Kaur @ Arshpreet Kaur****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:-

Mr. Shrome Garg, Advocate for
Mr. Rahul Aggarwal, Advocate for the petitioners.Mr. Shehbaz Thind, Advocate for the
respondent through VC.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by defendants seeking setting aside of the impugned order dated 23.01.2024 (Annexure P-8) passed by the learned Civil Judge (Junior Division) Malerkotla in Civil Suit No. 908 of 2019 (Gurpreet Kaur @ Arshpreet Kaur vs. Sarabjit Singh and another); whereby learned Trial Court has ordered that the defence of the petitioners-defendants stands struck off and written statement already filed be not taken on record.

2. Learned counsel for the petitioners submits that the impugned order is liable to be set aside as only 5 adjournments had been taken by the petitioners to file written statement. It is submitted that the said adjournments were taken due to the fact that the application filed by the respondent under Order 32 Rule 3 CPC for



appointment of Guardian was pending. Petitioners had been granted last opportunity to file written statement vide zimni order dated 19.04.2023 (Annexure P-3). Accordingly, written statement was duly filed on 5.5.2023. This fact is recorded by the learned Trial Court in the zimni order dated 05.05.2023 (Annexure P-5). However, the learned Trial Court has failed to appreciate this fact while passing the impugned order (Annexure P-8). Moreover, the matter got delayed as in the meantime, the plaintiff had filed application for striking off defence of the petitioners. Therefore, there was no intentional delay caused by the petitioners in filing the written statement. He accordingly prays that the present Civil Revision Petition be allowed; and the impugned order be set aside in the interest of justice and being contrary to the facts on record.

3. *Per contra*, learned counsel for the respondent/plaintiff submits that the suit has been pending since 2019 and despite passing of 6 years, petitioners had failed to file written statement. It is accordingly submitted that the present Civil Revision deserves to be dismissed as the impugned order suffers from no error.

4. No other argument is raised on behalf of the parties.

5. I have heard ld. counsel and perused the case file in detail.

6. I find merit in the submissions made by learned counsel for the petitioners. The plaintiff/sole respondent herein had filed a Suit for declaration and permanent prohibitory injunction on dated 08.07.2019 (Annexure P-1). Thereafter, as the plaintiff is a minor, she had filed an



application under Order 32 Rule 3 CPC for appointment of Guardian; which was disposed of by the learned trial court only vide order dated 22.04.2022 (Annexure P-2). The record of the case shows that thereafter written statement was not filed by the petitioners on 17.08.2022, 14.10.2022, 13.12.2022 and 19.01.2023. Accordingly, vide order dated 19.04.2023 (Annexure P-3), learned Trial Court had directed as follows: -

“Written statement not filed. Ld counsel for defendant seeks adjournment as he is quite unwell. Request considered and allowed. Now case is adjourned to 05.05.2023 for filing written statement. It shall be treated as last opportunity else defence shall be struck off.

*Dated 19.04.2023.
Brejesh Kumar
Stenographer Gr.-II*

*(Krishnanuja Mittal)
CJD-cum-JMIC, Malerkotla
UID Code-PB-0384.*

At this stage, file taken up again as ld counsel for plaintiff/applicant filed an application for striking off the defence of the defendants. Copy supplied. Now to come upon 05.05.2023 the date already fixed for filing reply to the said application.

*Dated 19.04.2023.
Brejesh Kumar
Stenographer Gr.-II*

*(Krishnanuja Mittal)
CJD-cum-JMIC, Malerkotla
UID Code-PB-0384.”*

7. Thereafter, vide zimni order dated 05.05.2023 (Annexure P-5), learned Trial Court has recorded as follows:-

“Today defendant no.1 superseded other counsel Sh. Sahil Liaqat, Advocate, who appeared on her behalf of defendant no.1 and filed power of attorney.

Reply to the application for struck off the defence of defendants filed by ld counsel for defendant no.2. Copy supplied.



Written statement and reply to the stay application also filed by defendant no.2. It is pertinent to mention here that it will not be taken on record till application for striking of the defence of defendants be decided.

Reply to the application for struck off the defence of defendants not filed by defendant no.1. Let, same be filed on 22.05.2023.”

8. A perusal of the above Zimni order dated 5.5.2023 clearly shows that written statement was filed by defendant no.2 on said date. However, in passing the impugned order, the learned Trial Court has failed to take into account the said fact; and has incorrectly recorded that “.....again in the order dated 19.04.2023, it was mentioned that it shall be treated as last opportunity, else defence shall be struck off. But despite of that written-statement has not been filed. Thereafter, application for striking off defence of defendant was filed. Thus, keeping in view the above, present application stands allowed and defence of defendants stands struck off. Written statement already filed be not taken on record. Now to come up on 04.03.2024 for evidence of plaintiff.”

9. Perusal of the above facts shows that the impugned order dated 23.01.2024 (Annexure P-8) passed by the learned Trial Court striking off the defence of the petitioners is passed on a mistaken premise while ignoring the zimni order dated 05.05.2023 (Annexure P-5); whereby written statement of the petitioners was indeed filed. The case file also reveals that in the interregnum, defendant No.1 has



expired on 17.05.2023 for which petitioners had filed application for impleading LRs of defendant No.1 which was allowed vide order dated 01.09.2023 (Annexure P-6).

10. In view of the facts recorded above, present Civil Revision Petition stands **allowed**; and impugned order dated 23.01.2024 (Annexure P-8) striking off defence of the petitioners is set aside.

11. Pending application(s), if any, also stand(s) disposed of.

13.10.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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