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

CR-2104-2023

Date of decision: 03.04.2025

Baljeet Singh (deceased) through his LRs

...Petitioner(s)

Versus

Nirmla Devi and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. U.K. Agnihotri, Advocate and
Ms. Anshul Agnihotri, Advocate for the petitioner(s).

Mr. J.S. Cooner, Advocate for respondent No.1.

Mr. Jagdish Manchanda, Addl. A.G. Haryana
for respondent Nos.2 to 4.

VIKAS BAHL, J. (ORAL)

1. This is a revision petition filed under Article 227 of the Constitution of India for setting aside the order dated 24.08.2021 (Annexure P-6) passed by the Civil Judge (Junior Division), Ambala whereby the defence of the defendants-petitioners has been struck off.

2. Learned counsel for the petitioner(s) has submitted that in the present case, defendant No.5-Baljeet Singh appeared on 07.07.2018 through his counsel. It is submitted that on 20.07.2019, the Court was on leave and thus, the case was adjourned to 26.09.2019 and defendant No.5-Baljeet Singh had died on 21.08.2019 and thereafter, on 24.08.2021, the defence of



the petitioner(s) was struck off. It is submitted that the legal representatives of defendant No.5 were not aware of the proceedings and on coming to know about the proceedings, the present revision petition had been filed. It is submitted that, in case, legal representatives of defendant No.5 are not granted liberty to file written statement, then, irreparable loss would be caused to them.

3. Learned counsel for respondent No.1, on the other hand, has submitted that in the present case, suit for mandatory injunction had been filed by respondent No.1-plaintiff and thus, delay in the proceedings is causing prejudice to her. It is further submitted that an application for impleading the legal representatives of defendant No.5 was moved on 20.07.2022 and thus, the petitioner(s) were aware of the said proceedings. It is further submitted that plaintiff-Nirmla Devi had already been cross-examined by defendant No.4. It is submitted that in case last opportunity is to be granted to the petitioner(s) to file written statement, then, costs should be imposed on the petitioner(s) and the petitioner(s) should also be directed to file written statement in a time bound manner.

4. Learned counsel for the petitioner(s) in rebuttal has submitted that the petitioner(s) is ready to pay the costs of Rs.70,000/- which would be deposited before the trial Court within a period of 15 days from today and has no objection in case the same is released to the plaintiff-respondent No.1.

5. Keeping in view the abovesaid facts and circumstances, this Court is of the opinion that one last opportunity should be granted to the petitioner(s) to file written statement subject to payments of costs.



Accordingly, the present revision petition is partly allowed and order dated 24.08.2021 is set aside with the following directions/observations:-

- i) Legal representatives of defendant No.5/petitioner(s) would file the written statement within a period of 15 days from today by moving an application before the trial Court.
- ii) The petitioner(s) would also deposit an amount of Rs.70,000/- as costs within the aforesaid period of 15 days from today. On deposit of the said amount, the same would be released by the trial Court to respondent No.1-plaintiff. In case the said amount is not deposited or the written statement is not filed within the aforesaid period, then the present revision petition would be deemed to have been dismissed.
- iii) The petitioner(s) would be given one effective opportunity to cross-examine the witnesses of the plaintiff who have not been cross-examined by the petitioner(s). The petitioner(s) would not seek unnecessary adjournments and would fully assist the Court in expeditious disposal of the case.

03.04.2025

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No