
(1993) 08 P&H CK 0158
In the Punjab And Haryana At Chandigarh
Case No : C.R. No. 1330 of 1993

Dilwar Singh and Another

APPELLANT

Vs

Ghansham Singh and Others

RESPONDENT

Date of Decision : 05-08-1993

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 35B

Citation : (1994) 106 PLR 680

Hon'ble Judges : G.C. Garg, J

Bench : Single Bench

Advocate : M.L. Sarin and Hemant Sarin, for the Appellant; Rajive Bhalla, for the Respondent

Judgement

G.C. Garg, J.—On notice of motion having been issued, plaintiff-respondent has put in appearance.

2. Having regard to the nature of controversy involved in this revision petition, I deem it appropriate to dispose of this matter at the motion stage.

3. Ghansham Singh, respondent filed a suit for declaration to the effect that land measuring 307 kanals 2 marlas, as fully detailed in the plaint, was owned and possessed by the Gram Panchayat and not by anybody else. Notice of the suit was given to the defendants including the present petitioners (defendants No. 6 and 7). These defendants were served in the suit for July 18, 1992, when they put in appearance. During the period July 18, 1992 to April 16, 1993 at least 11 dates were fixed for filing their written statement but the defendants did not file the written statement. Consequently, by order dated April 16, 1993, learned Subordinate Judge, struck off the defence and posted the case for replication to the written statement of defendant No. 2. While striking off the defence it was also noticed that costs amounting to Rs. 160/- for granting adjournment from March 10, 1993 to April 16, 1993 had also not been paid.

4. Learned counsel for the petitioners only submitted that though there is a lapse

on the part of the defendants in not filing the written statement despite grant of a number of opportunities yet they be granted one opportunity to file the written statement on the next date of hearing viz. September 15,1993, already fixed in the suit subject to the payment of costs.

5. For the reasons hereinafter recorded, the revision petition deserves to succeed. It is true that atleast 11 opportunities had been afforded to these defendants to file the written statement and they took no steps to file the same but it cannot be lost sight of that issues have not yet been framed in the suit. The suit is, thus, at the initial stage and it will be in the interest of justice if the plaintiff is compensated by payment of heavy costs for the lapse of the defendants in not filing the written statement for such a long time.

6. Consequently, by setting aside the order under revision, the petitioners are permitted to file written statement on the next date of hearing fixed in the suit viz. September 15, 1993 on payment of Rs. 5,000/- as costs. Costs shall be payable to the plaintiff through crossed Demand Draft, which the petitioners may tender through Court for payment to the plaintiff.

7. Accordingly, this petition is disposed of in the above terms.