
(2011) 04 SHI CK 0272
In the High Court Of Himachal Pradesh
Case No : CMPMO No. 372 of 2009

Ram Rattan and Others

APPELLANT

Vs

Asha and Others

RESPONDENT

Date of Decision : 05-04-2011

Acts Referred:

Constitution of India, 1950 — Article 227

Citation : (2011) 04 SHI CK 0272

Hon'ble Judges : V.K. Ahuja, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Ahuja, J.—This is a petition filed by the Petitioners/Defendants under Article 227 of the Constitution of India, against the order passed by the learned Civil Judge (Junior Division), Kandaghat, dated 17.3.2009, vide which he had rejected the written statement filed by the Petitioners, since it was filed beyond time.

2. Notices were issued to the Respondents.

3. I have heard the learned Counsel for then parties and have gone through the record of the case.

4. It is clear that the service of other Defendants had not yet been effected. Time to file the written statement could have been extended by the learned trial Court keeping in view the facts and circumstances of the case. These are procedural matter and steps have to be taken and due opportunities to both the parties to present their cases have to be given. Therefore, the impugned order passed by the learned trial Court is not sustainable in the eyes of law. The written statement already filed by the Petitioners is allowed to be taken on record subject to Rs. 500/- as costs, payable to Respondents No. 1 to 5. Costs shall be paid to Respondents No. 1 to 5 before the learned trial Court.

5. In view of the above discussion, the petition stands allowed. A copy of the

judgment alongwith record of the case be sent to the learned trial Court. In view of the disposal of the main petition, all the miscellaneous application(s), if any, also stands disposed of.

6. Parties through their learned Counsel are directed to appear before the learned trial Court on 25.4.2011.