
(1990) 05 P&H CK 0104
In the Punjab And Haryana At Chandigarh
Case No : Civil Revision No. 2372 of 1987

Sucha Singh and Others

APPELLANT

Vs

The State of Punjab and Others

RESPONDENT

Date of Decision : 24-05-1990

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115, 151

Citation : (1990) 98 PLR 492

Hon'ble Judges : Amrit Lal Bahri, J

Bench : Single Bench

Advocate : None, for the Appellant; Nirmaljit Kaur, for the Respondent

Final Decision : Dismissed

Judgement

A.L. Bahri, J.—Sucha Singh and others plaintiffs challenged in this Revision Petition order of Subordinate Judge, 1st Class, Moga, dated July 23, 1987; whereby State of Punjab and others defendants were allowed to present the written statement although earlier their defence was struck off. The suit was filed by Sucha Singh and others in 1985 seeking permanent injunction restraining defendants 1 to 4 from interfering or otherwise physically ejecting and dispossessing the plaintiffs and restraining defendants Nos. 2 to 4 from taking "Chakota" forcibly and from auctioning by sale or lease of the suit land. On December 5, 1985, defendants 1 to 4 put in appearance and the case adjourned to January 14, 1986 for filing written statement, and on that day Holiday was declared and the case was adjourned to February 14, 1986. Kanugo Som Nath put in appearance on that day and sought adjournment. Case was adjourned to February 27, 1986. On that (Jay Government Pleader put in appearance on behalf of defendants 1 to 4, on his request the case was adjourned to March 19, 1986 for filing written statement. Thereafter four dates were fixed for allowing the defendants to file written statement. On May 30, 1986 although Government Pleader appeared, but he sought time and the case was adjourned for an hour. Again the case was taken up on that very day at 12.30 P.M. and thereafter at

2.30 P.M. Since no written statements was filed, the defence of defendants 1 to 4 was struck off. The case was put up for replication on June 6, 1986. Government Pleader moved an application that he had filed written statement. This application was again opposed on behalf of the plaintiffs. The said application was for setting aside ex parte proceedings. On August 28, 1986 another application was moved by the Government Pleader seeking permission to file the written statement. Vide order dated July 23, 1987 the said application was allowed subject to payment of Rs. 50/- as costs. It is this order which is being challenged by the plaintiffs on the ground that the Court could not revise its earlier order dated May 30, 1986 striking off defence of the defendants.

2. Provisions in the CPC are meant for doing substantial justice between the parties. The Court is not bound by the chains of these procedures. Even if the party is proceeded ex-parte, the Court can set aside the said order on sufficient cause being shown. Even if there was no provision for recalling the order of striking off defence, under inherent powers of the Court u/s 151 of the Code for doing substantial justice between the parties, the defendants could be allowed to file the written statement. Since in the present case this action was taken at the very initial stage, that is, before framing of the issues, no injustice has been done to the plaintiffs. The grant of costs in such like cases is the appropriate compensation for the inconvenience caused, if any.

3. Finding no merit in this Revision Petition, the same is dismissed. No order as to costs.