

ORDER SHEET
IN THE ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

F.A.O. No.120/2019
David Bauer and others
Versus
Ghulam Ghaus

S. No. of order / proceedings	Date of order/ Proceedings	Order with signature of Judge and that of parties or counsel where necessary.
	09.07.2019	Syed Hasnain Ibrahim Kazmi, Advocate for the appellants Barrister Qasim Nawaz, Advocate for the respondent

Through the instant appeal, the appellants impugn the order dated 18.05.2019, whereby their right to file a written statement was struck off by the learned trial Court.

2. Learned counsel for the appellants submitted that the appellants were totally unaware about the pendency of the civil suit; that the representation on the appellants' behalf before the learned Civil Court had been made unauthorizedly; and that the written statement has already been prepared and the same shall be filed provided one opportunity is afforded to the appellants on the payment of costs.

3. Learned counsel for the contesting respondent submitted that vide order dated 09.05.2019, the appellants had been given a last and final opportunity to file their written statement with costs to the tune of Rs.5,000/-; that despite the said warning, the appellants did not file the written statement on 18.05.2019; that in the interests of justice, the impugned order dated 18.05.2019 may be set aside subject to the payment of costs and provided that the appellants do not prolong the proceedings before the learned Civil Court.

4. I have heard the contentions of the learned counsel for the contesting parties.

5. Indeed, vide order dated 09.05.2019, the learned Civil Court had given a last opportunity to the appellants to file their written statement by 18.05.2019. The learned Civil Court had also imposed costs of Rs.5,000/- on the appellants. Since, on 18.05.2019, the appellants neither paid the costs nor filed their written statement, I am of the view that the learned Civil Court correctly struck off the appellants' right to file the written statement. However, given the concession by the learned counsel for the contesting respondent, this appeal is allowed and the impugned order dated 18.05.2019 is set aside subject to the payment of costs of Rs.20,000/- in addition to Rs.5,000/- imposed by the learned Civil Court. The costs shall be paid to the respondent on the next date of hearing before the learned Civil Court.

(MIANGUL HASSAN AURANGZEB)
JUDGE

*Sanaullah**