

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CMPMO No. 791 of 2025

Decided on: 31.12.2025

State of H.P. and another petitioners

Versus

Sohan Lal Sharma

.....respondent

Coram:

Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting? ¹

For the petitioners : Mr. Diwakar Dev Sharma,
Additional Advocate General.

For the respondent : Nemo.

Bipin Chander Negi, Judge (oral)

The present petition has been preferred against the impugned order dated 28.10.2025, passed by the learned Senior Civil Judge, Shimla, District Shimla, H.P., in Civil Suit No. 87-1 of 2024 titled Sohan Lal Sharma vs. State of H.P. and another, whereby the right of the present petitioners/defendants No.1 and 2 to file the written statement has been struck off.

2. Heard counsel for the petitioners.

3. At the very outset, it would be appropriate to refer to the authoritative pronouncement of the **Apex Court in 2007 (14) SCC 431**, titled Aditya Hotels (P) Limited Vs. Bombay Swadeshi Stores Limited. The relevant extract whereof is being reproduced hereinbelow:-

¹ Whether the reporters of the local papers may be allowed to see the judgment?

“6. The parameters for extending the time granted by Order VIII Rule 1 of the Code have been delineated by this Court in several cases. In [Kailash v. Nanhku and Ors.](#) (2005 (4) SCC 480) it was noted as follows:

"42. Ordinarily, the time schedule prescribed by Order 8 Rule 1 has to be honoured. The defendant should be vigilant. No sooner the writ of summons is served on him he should take steps for drafting his defence and filing the written statement on the appointed date of hearing without waiting for the arrival of the date appointed in the summons for his appearance in the Court. The extension of time sought for by the defendant from the Court whether within 30 days or 90 days, as the case may be, should not be granted just as a matter of routine and merely for the asking, more so, when the period of 90 days has expired. The extension can be only by way of an exception and for reasons assigned by the defendant and also recorded in writing by the court to its satisfaction. It must be spelled out that a departure from the time schedule prescribed by Order 8 Rule 1 of the Code was being allowed to be made because the circumstances were exceptional, occasioned by reasons beyond the control of the defendant and such extension was required in the interest of justice, and grave injustice would be occasioned if the time was not extended.

* * *

44. The extension of time shall be only by way of exception and for reasons to be recorded in writing, howsoever brief they may be, by the court. In no case, shall the defendant be permitted to seek extension of time when the court is satisfied that it is a case of laxity or gross negligence on the part of the defendant or his counsel. The court may impose costs for dual purpose: (i) to deter the defendant from seeking any extension of time just for the asking, and (ii) to compensate the plaintiff for the delay and inconvenience caused to him."

7. Since neither the trial Court nor the High Court have indicated any reason to justify the acceptance of the written statement after the expiry of the time fixed, we set aside the orders of the trial Court and that of the High Court. The matter is remitted to the trial Court to consider the

matter afresh in the light of what has been stated in [Kailash](#)'s case (supra). The appeal is allowed to the aforesaid extent with no order as to costs.”

4. Timelines specified in the Civil Procedure Code for filing a written statement in a non-commercial dispute as is the case at hand are directory. However, it does not bestow a free hand on any litigant or lawyer to file written statement at their own sweet will. The timeline specified has to be given due weightage. Discretion to be exercised by Courts to extend the timelines are fairly well-defined e.g. extreme hardship or delay occurring due to factors beyond the control of the parties despite proactive diligence may be just an equitable instances for condonation of delay. To the contrary blatant lapses of not filing the written statement within time, seeking extension of time in filing written statement in a casual manner without proffering a reasoned-justification or explanation need to be deprecated. Routine condonations and cavalier attitude towards the process of law affects the administration of justice. Courts are expected to act stringently to ensure that all proceedings are decided within reasonable time. In this regard reference can be made to 2020 (2) SCC 708, titled Desh Raj Vs. Balkrishan (Dead) through proposed legal representative. The relevant extract is reproduced hereinbelow:-

13. *As regards the timeline for filing of written statement in a non- commercial dispute, the observations of this Court in a catena of decisions,*

most recently in **Atcom Technologies Ltd. v. Y.A. Chunawala and Co.**,⁴ holds the field. Unamended Order VIII Rule 1, CPC continues to be directory and does not do away with the inherent discretion of Courts to condone certain delays.

15. However, it would be gainsaid that although the unamended Order VIII Rule 1 of CPC is directory, it cannot be interpreted to bestow a free hand to on any litigant or lawyer to file written statement at their own sweet-will and/or to prolong the lis. The legislative objective behind prescription of timelines under the CPC must be given due weightage so that the disputes are resolved in a time-bound manner. Inherent discretion of Courts, like the ability to condone delays under Order VIII Rule 1 is a fairly defined concept and its contours have been shaped through judicial decisions over the ages. Illustratively, extreme hardship or delays occurring due to factors beyond control of parties despite proactive diligence, may be just and equitable instances for condonation of delay.

18. The only defence taken to these repeated and blatant lapses is that the appellant's counsel was not turning up. No attempt has been made to even proffer a reasoned justification or explanation, and it is clear that appellant is seeking condonation in a casual manner. This ought not to be permitted or encouraged. Courts must act stringently to ensure that all proceedings are decided within reasonable time, and it is but the duty of the judicial system to cultivate a culture of respecting deadlines and time of the Court, its officers as well as of adversaries.

19. The routine condonations and cavalier attitudes towards the process of law affects the administration of justice. It affects docket management of Courts and causes avoidable delays, cost escalations and chaos. The effect of this is borne not only by the litigants, but also commerce in the country and the public-in-general who spend decades mired in technical processes."

5. No infirmity can be found with the impugned order dated 28.10.2025. However, from a perusal of the order-sheets

placed on record, it is evident that the matter has now been posted for recording of evidence of the plaintiff/present respondent. The respondent/plaintiff has been directed to take steps for producing evidence on his behalf.

7. In the aforesaid factual matrix and in the interest of justice, the present petition is allowed. The order dated 28.10.2025, impugned in the case at hand, is modified to the extent that one opportunity is granted to the present petitioners to file their written statement, subject to payment of costs of ₹25,000/- to the plaintiff. Costs have been awarded to compensate the plaintiff for the delay, inconvenience caused & to deter the present petitioners for seeking extension of time for the asking. The petitioners are directed to appear before the Trial Court on 17.01.2026. On the said date, the written statement shall be filed, and the costs, as ordered herein, shall be paid. The written statement shall only be taken on record post payment of cost to the plaintiff as has been awarded herein. No further opportunity to file written statement shall be afforded to the present petitioners. Pending miscellaneous applications, if any, also stand disposed of.

(Bipin Chander Negi)
Judge

31st December, 2025
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