

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

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Civil Revision No. 1302 of 2015

Date of Decision: December 17, 2015

Meena Aggarwal

-Petitioner

Vs.

Naresh Kumar and Ors.

-Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. K. S. Kang, Advocate
for the petitioner.

Mr. Rajesh Duhan, Advocate
for respondent No.1.

RAJ MOHAN SINGH, J. (ORAL)

{1}. Petitioner has assailed order dated 28.01.2015 vide which defence of defendant No.2 was struck off for want of written statement. Plaintiff filed suit for dissolution of firm M/s Jugal Rice Mills, Samana and for seeking due share of profit and bank balance alongwith share in machinery and complete rice mill and other installations like electric motor and accessories thereto in the mill. Prayer for separate possession by way of metes and bounds of the building consisting of rooms, quarters and boundary wall has also been made.

{2}. An application for extension of time for filing certain

documents was moved by defendant No.2. The said application was dismissed and the trial Court struck of the defence for want of written statement on behalf of defendant No.2 on the ground that mandatory period of 90 days has also lapsed. The mandatory period of 90 days in view of facts and circumstances of case has also been diluted by the Hon'ble Apex Court in **Salem Advocate Bar Association vs Union of India, 2005 (3) RCR (Civil) 530**, however, latch and omission on part of the erring defendant has to be weighed in the context of opportunities availed of by the party and loss likely to be suffered to the plaintiff in the event of delay.

{3}. Having considered the controversy on record, it would be just and expedient to give one opportunity to the petitioner-defendant No.2 to file written statement subject to payment of ₹11,000/- as cost. Payment of cost would be the condition precedent for filing the written statement. Trial Court would fix a date on appearance of the parties before him on 12.01.2016. Needful be done by the defendant No.2-petitioner on or before the said date.

{4}. Disposed of.

December 17, 2015
jyoti Y.

(RAJ MOHAN SINGH)
JUDGE