

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 2662 of 2015

Date of Decision: April 22, 2015

Balwinder Singh

.....Petitioner

Vs.

Santokh Singh and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.G.S. Sirphikhi, Advocate
for the petitioner.

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M.M.S. BEDI, J. (ORAL)

Vide impugned order, in the exercise of powers under Order 8 Rule 1 CPC, the trial Court has struck off the defence of defendant-petitioner.

A perusal of the impugned order indicates that the defendant-petitioner had been causal in his approach in filing the written statement but at the same time, it cannot be ignored that the provisions of Order 8 Rule 1 CPC have been held to be directory and not mandatory. Prima facie, the petitioner appears to be entitled to an opportunity to file written statement

and contest the claim of the plaintiff- respondents on merits, in the interest of justice.

I propose to dispose of this petition in limine in order to avoid unnecessary delay and litigation expenses of the plaintiff- respondents.

This petition is allowed. Interim order dated January 9, 2015 striking off the defence of the defendant- petitioner on the ground of non-filing of the written statement is hereby set aside. It is ordered that the petitioner will be permitted to file written statement subject to payment of cost of Rs.15000/-. The petitioner will be granted one opportunity to file written statement within a period of 15 days or by next date of hearing whichever is later subject to payment of cost of Rs.15000/-. It is made clear that in case the cost is not paid or written statement is not filed, as mentioned hereinabove subject to payment of cost, the petition will be deemed to have been dismissed.

Since this petition has been disposed of in limine, it is ordered that in case order is not acceptable to the plaintiff- respondents, it will be open to the plaintiff - respondents to approach this Court for seeking review of the order.

April 22, 2015
sanjay

(M.M.S.BEDI)
JUDGE