

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

(286)

CR No.3004 of 2015

Decided on: July 23, 2015.

Meerabai

.... Petitioner

Versus

Virnawali @ Viranwali and another

..... Respondents

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

Present: Mr. Abhimanyu Singh, Advocate,
for the petitioner.

Mr. Vaibhav Jain, Advocate,
for respondent No.1.

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

Vide order dated 26.02..2015 passed by Civil Judge (Junior Division), Mewat, the defence of defendant No.1-petitioner has been struck off for having not filed written statement and reply to the stay application.

I have considered the facts and circumstance of the case and I am of the opinion that as per judgment of Apex Court in **Kailash Vs. Nanhku and others 2005 (2) RCR (Civil) 379,** the Court has got discretion to extend the period for filing of written statement, in the interest of justice, as the provisions of Order 8 Rule 1 CPC are only directory and not mandatory. In the present case, the petitioner-defendant No.1 is stated to be a lady who is 85 years of age, can be permitted to defend the suit by giving her one opportunity to file written statement.

This petition is allowed. Impugned order dated 26.02.2015 is hereby set aside with a direction that the petitioner will file written statement on the next date of hearing fixed before the trial Court subject to payments of costs of Rs.5,000/-. In case, costs of Rs.5,000/- is not paid or written statement is not filed before the trial Court, this petition will be deemed to have been dismissed.

(M.M.S. BEDI)
JUDGE

July 23, 2015
harsha