

CR-3139-2015 (O&M)

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

**CR-3139-2015 (O&M).
Decided on: May 11, 2015.**

Poonam Devi

..... Petitioner(s)

Versus

Birender Singh and others

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Mukesh Yadav, Advocate,
for the petitioner.**

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

Defendant No.9 has filed this petition aggrieved by the order Annexure P5, striking of her defence for having not filed written statement within the stipulated period in the exercise of jurisdiction under Order VIII Rule 1 CPC.

In view of the judgments of Hon'ble the Supreme Court in **Smt. Rani Kusum Vs.Smt.Kanchan Devi, AIR 2005 (SC) 3304, and Kailash Vs. Nankhu, 2005 (4) SCC 480**, the provisions of Order VIII Rule 1 CPC are directory and not mandatory and that the extension of time may be allowed by a civil Court if needed beyond 90 days in the circumstances which are beyond the control of defendant.

I have considered the facts and circumstances of the case. It appears that grave injustice would occasion in case time is not granted to the defendant- petitioner to file written statement.

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The trial Court could have at least given time to the petitioner to file written statement within 90 days of her service.

This petition is disposed of in limine to save time and expenses of plaintiffs-respondents with a direction that the petitioner will file written statement on next date of hearing i.e., 15.5.2015 along with costs of Rs.10,000/-. The costs will be paid in the Court on 15.5.2015 along with written statement.

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

It is made clear that in case the amount is not paid or the written statement is not filed on next date of hearing, this petition will be deemed to have been dismissed.

May 11, 2015.
rka

(M.M.S. BEDI)
JUDGE