

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

Civil Revision No.3197 of 2015 (O&M)

Date of decision:21.07.2015

Shri Gurinder Pal Singh Kler

.... Petitioner

versus

Dr. Ved Parkash Kapoor and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Deepak Sharma, Advocate,
for the petitioner.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The revision is against the orders passed by the trial Judge permitting the statements to be filed by the respective defendants beyond a statutory period of 90 days given under the Civil Procedure Code. While allowing the statements to be entertained, the court has observed that if the statement is not received, great prejudice would be caused.

2. The plaintiff is in revision before this court to contend that the court passes an order allowing for statement to be entertained must set out its reasons and refers to me to a judgment of

the Supreme Court in **M/s R.N. Jadi and Brothers and others Versus Subhashchandra-AIR 2007 Supreme Court 2571** and contends that the order passed breaches the law laid down by the Supreme Court.

3. In the decision referred to by the counsel, the court was actually holding that even the time fixed under Order 8 Rule 1 CPC does not take away the power of the court to accept a written statement filed beyond time. The judgment is a reiteration of the law already laid down by the Supreme Court in **Salem Advocate Bar Association, Tamil Nadu Versus Union of India-AIR 2005 (SC) 3353** and the decision in **Kailash Versus Nankhu-2005 (4) SCC 480** that the provisions of the Order 8 Rule 1 CPC are directory. If at all therefore there is any inference to be drawn from the judgment, it could be only to support the order that has been passed already by the Judge and not to see that the order has made any breach of the Supreme Court's judgment.

4. The mistake perhaps is to see that the court was exercising its jurisdiction without a specific application therefor by the defendants, who were trying to bring the respective statements beyond 90 days, which is surely an error in procedure and the court shall in future at all times ensure that there is a proper explanation given by any party who seeks the discretion of the court to be exercised for receiving the statement beyond a period of 90 days.

An error in procedure is not an illegality that would require an intervention under Article 227. I maintain the order, point out to the error in procedure and dismiss the revision petition.

(K.KANNAN)
JUDGE

21.07.2015
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