

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 3354 of 2015

Date of Decision: May 18, 2015

Satnam Singh

.....Petitioner

Vs.

Parvita Mahendru

.....Respondent

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

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Present:- Mr.Nakul Sharma, Advocate
for the petitioner.

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

The defence of the defendant- petitioner has been struck off vide impugned order dated April 7, 2015 on the ground that within the statutory period of 90 day, the written statement has not been filed without any reasonable explanation.

Counsel for the petitioner has drawn my attention to the interim orders indicating that an application filed by the petitioner under Order 11 Rule 1 CPC was pending for supply of the agreement which was the basis for the dispute. The said application was disposed of on January 17, 2015

and as such there was reasonable ground for permitting the written statement to be placed on record.

I have heard learned counsel for the petitioner and I am of the considered opinion that in the interest of expeditious disposal and to save the unnecessary expenses of the plaintiff- respondent, the present revision petition should be disposed of in limine.

It is settled proposition of law in **Rani Kusum Vs. Kanchan Devi**, 2005 (3) RCR (Civil) 727 and **Kailash Vs. Nankhu and ors.**, 2005 (2) RCR (Civil) 379 that the provisions of Order 8 Rule 1 CPC are directory and not mandatory and that the extension of time may be allowed if it is noted to be given to the circumstances which are exceptional and occasioned by reasons beyond the control of the defendant or that grave injustice was occasioned if the time was not extended. I am of the considered opinion that a fair opportunity should be given to the defendant- petitioner to file written statement and contest the claim of the plaintiff- respondent on merits, of course, subject to payment of cost to compensate the plaintiff- respondent for unnecessary delay caused.

This petition is allowed in limine. The order dated April 7, 2015 is hereby set aside and it is ordered that the petitioner will be permitted to file written statement on next date of hearing i.e. May 20, 2015 subject to payment of cost of Rs.10000/- to the plaintiff.

Since this petition has been disposed of in limine, it is ordered that in case the order is not acceptable to the plaintiff- respondent, it will be

open to him to approach this Court for modification of the order. It is made clear that in case the cost is not paid or written statement is not filed on May 20, 2015, this petition will be deemed to have been dismissed.

May 18, 2015
sanjay

(M.M.S.BEDI)
JUDGE