

CR-3463-2015 (O&M)

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

CR-3463-2015 (O&M).

Decided on: May 19, 2015.

Avtar Singh

..... Petitioner(s)

Versus

Axis Bank Ltd. and another

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Jasdeep Singh, Advocate,
for the petitioner.**

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

This is defendant's revision petition against the order dated 1.12.2014, striking of the defence of the defendant-petitioner on account of non filing of the written statement declining the request for adjournment.

Counsel for the petitioner submits that non-filing of written statement was on account of some family problem with the counsel.

Without expression of any opinion regarding reasons for non-filing of written statement, I am of the considered opinion that the cause of the plaintiff-respondent No.1 will have an additional benefit in suit for recovery filed against the defendant-petitioner in case the order striking of the defence of the petitioner is permitted to be set aside. Even otherwise, Hon'ble the Apex Court in

Smt. Rani Kusum Vs.Smt.Kanchan Devi, AIR 2005 (SC) 3304,

and Kailash Vs. Nankhu, 2005 (4) SCC 480, has observed that the provisions of Order VIII Rule 1 CPC are directory and not mandatory and that for special reasons the Court has got jurisdiction to extend time to enable a party to file written statement.

Taking into consideration the interests of justice, this Court is of the opinion that the plaintiff-respondent No.1 may be compensated for the unnecessary harassment and delay caused on account of non-filing of written statement and in order to further curtail the wastage of time and delay in the proceedings before the trial Court, the petition can be disposed of in limine without issuing notice to the plaintiff-respondent No.1.

The petition is allowed. The order dated 1.12.2014, striking of the defence of the defendant- petitioner is hereby set aside. A direction is issued that defendant No.1-petitioner will file written statement on the next date of hearing along with costs of Rs.10,000/- to be paid to plaintiff-respondent No.1 Bank. In case the written statement is not filed or costs is not offered, this petition will be deemed to have been dismissed.

Since this petition has been allowed in limine to save the unnecessary expenses and prevent wastage of time, it will be open to the plaintiff-respondent No.1 to approach this Court for review of the order if the same is not acceptable to it.

May 19, 2015.
rka

(M.M.S. BEDI)
JUDGE