

CR-3313-2014 (O&M)

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

CR-3313-2014 (O&M).

Decided on: May 19, 2015.

Mohan Singh

..... Petitioner(s)

Versus

Gurdeep Kaur

..... Respondent(s)

*** * ***

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

**PRESENT Mr.Liaqat Ali, Advocate,
for the petitioner.**

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

Vide impugned order dated 18.2.2014, the defence of the petitioner has been struck off for not filing process fee within the statutory period

Notice was issued to the respondent.

The defendant-petitioner was asked to bring a bank draft of Rs.10,000/- in favour of the respondent. It is interested to note that the respondent is none else but the wife of the petitioner. The respondent has filed a suit for declaration challenging the sale transaction between the petitioner and one Gulzar Singh. The petitioner did not file any written statement within the stipulated period as a result of which his defence was struck off on 18.2.2014.

Without expression of any opinion whether the suit is collusive or whether it could affect the rights of the third party not impleaded in the case, I am of the opinion that the Order VIII Rule 1

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of the Code of Civil Procedure being not mandatory but only directory as per the judgments in **Smt. Rani Kusum Vs.Smt.Kanchan Devi, AIR 2005 (SC) 3304, and Kailash Vs. Nankhu, 2005 (4) SCC 480.**, the petitioner can be given an opportunity to file written statement subject to costs of Rs.20,000/-.

This petition is allowed subject to payment of costs of Rs.20,000/- i.e., Rs.10,000/- payable to the respondent-wife and remaining Rs.10,000/- to be deposited with the District Legal Services Authority, Ludhiana. A bank draft of Rs.10,000/- seems to have already been handed over to the respondent-wife. It is ordered that the petitioner will be permitted to file written statement within a period of one week or on the next date of hearing whichever is later subject to his submitting receipt of deposit of Rs.10,000/- with the District Legal Services Authority, Ludhiana, on next date of hearing along with written statement.

May 19, 2015.
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(M.M.S. BEDI)
JUDGE