

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

(108)

**CR No.4550 of 2015 (O&M)
Decided on: July 22, 2015.**

Jaspreet Singh Saini

.... Petitioner

Versus

Kulwant Singh Saini and another

..... Respondents

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

Present: Mr. V.K. Sandhir, Advocate,
for the petitioner.

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

Petitioner is an added respondent in an ejectment petition filed by Kulwant Singh respondent No.1 against Ravinder Singh respondent No.2.

Vide impugned order, defence of the petitioner has been struck off having not filed written statement.

Learned counsel for the petitioner submits that there was a reasonable cause for not filing written statement after application under Order 1 Rule 10 CPC filed by the petitioner, having been decided, a fresh memo of parties was furnished with wrong names and that the petitioner had filed an application for rectifying the same. In view of said circumstances, there was a reasonable cause for not filing the written statement.

It has been informed that memo of parties has now been corrected.

Learned counsel for the petitioner submits that filing of written statement by the petitioner is necessary for the just decision of the case as

controversy regarding the relationship of the landlord and tenant is to be determined.

After hearing learned counsel for the petitioner, I am of the opinion that provision of Order 8 Rule 1 CPC are directory in nature and that a defendant can be permitted to file written statement even beyond 90 days in case there are exceptional circumstances brought to the notice of the Court. In this context a reference can be made to the judgments of Apex Court in *Smt. Rani Kusum Vs. Smt. Kanchan Devi, AIR 2005 (SC) 3304* and *Kailash Vs. Nanhku, 2005 (4) SCC 480.*

In view of abovesaid judgments, I am of the opinion that the petitioner can be permitted to file written statement by giving him one opportunity.

This petition is disposed of in limine without issuing notice to the respondents, in the interest of justice, and to avoid delay in the proceedings before the Rent Controller as well as saving the respondents from litigation expenses. It is ordered that petitioner will file written statement on the date already fixed before the Rent Controller. He will pay a costs of Rs.10,000/- to respondent No.1 on said date. In case, the costs is not paid or written statement is not filed on the next date of hearing fixed before the Rent Controller, this petition will be deemed to have been dismissed.

It will be open to the respondents to approach this Court for review of the order, in case, the order is not acceptable by any of the respondents.

(M.M.S. BEDI)
JUDGE

July 22, 2015

harsha