

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

CR No.5090 of 2015

Date of decision : 18.09.2015

Vir Bhushan Achraya and another

...Petitioners

Versus

Mahesh Chander and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

1. Whether reporters of local newspapers may be allowed to see judgment ?
2. To be referred to reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Present: Mr. Amit Jhanji, Advocate for petitioners.

Mr. T.P.S. Bhatti, Advocate for respondent Nos.1 and 2.

AMIT RAWAL, J. (Oral)

Challenge in the present petition is to the impugned order dated 11.03.2014, whereby defence of the petitioners-defendants has been struck off and order dated 20.05.2015, whereby application for recalling of the order dated 11.03.2014, has been dismissed.

Mr. Amit Jhanji, learned counsel appearing on behalf of petitioners submits that as per ratio decidendi culled out by Hon'ble Supreme Court in *Kailash Vs. Nanku 2005(4) SCC 480*, provision of Order 8 Rule 1, has been held to be directory and not mandatory. He further submits that written statement has already been prepared. In case one

opportunity is granted, the petitioners-defendants shall file the written statement on the next date i.e. 21.10.2015.

Mr. T.P.S. Bhatti, learned counsel appearing on behalf of respondent Nos.1 and 2 submits that petitioners-defendants have taken more than 90 days i.e. by taking numerous adjournments for filing the written statement, therefore, permission if any granted should be subject to payment of heavy/exemplary costs.

I have heard learned counsel for parties and appraised the paper book.

In my view, the trial Court ought to have allowed application while, entertaining the application for recalling of the order dated 11.03.2014 as it has already been held in various judgments that provision of Order 8 Rule 1 of Code of Civil Procedure is directory in nature and not mandatory. Of course, since petitioners-defendants have taken numerous adjournment as noticed in the order dated 20.05.2015, written statement should have been taken on record, subject to payment of costs.

Since, the written statement is stated to be ready and the petitioners-defendants have undertaken to file on the next date, I deem it appropriate to set aside the aforementioned orders i.e. order dated 11.03.2014 (Annexure P-3) and 20.05.2015 (Annexure P-6) and grant one opportunity to the petitioners-defendants to file written statement, subject to payment of cost of ₹5,000/-.

Revision petition stands allowed.

18.09.2015

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**(AMIT RAWAL)
JUDGE**