

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 6887 of 2015
Date of decision : October 15, 2015

Jasbir Singh

..... Petitioner

Versus

Parvinder Kumar and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Rajesh Verma, Advocate
for the petitioner.

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

Amit Rawal, J (oral).

Learned counsel for the petitioner submits that vide impugned order dated 7.9.2015 defence of the petitioner-defendant to file written statement has been struck off despite availing an opportunity and imposition of costs. He submits that in case, one opportunity is granted, he will file the written statement on the next adjourned date i.e. 23.10.2015.

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

As per judgment rendered by Hon'ble Supreme Court in **Salem Bar Association Tamil Nadu Vs. Union of India, 2005 (6) SCC 344**, it has been held that provisions of Order 8 Rule 1

CPC are not mandatory, but directory in nature. The aforementioned view has been reiterated by the Hon'ble Supreme Court in **Kailash Vs. Nanku 2005 (2) RCR (Civil) 379.** From the perusal of zimni orders, it is evident that petitioner-defendant has availed number of opportunities despite that he has not filed written statement, thus he is adopting dilatory tactics.

However, taking into consideration the peculiar facts and circumstances of the case and in order to advance justice between the parties to the *lis*, so that there is no miscarriage of justice, the impugned order is set aside. The petitioner-defendant is granted one opportunity to file written statement subject to payment of costs of ₹5,000/- on the aforementioned adjourned date.

It is made clear that the payment of costs would be condition precedent before availing the opportunity to file written statement.

The civil revision is allowed.

(AMIT RAWAL)
JUDGE

October 15 , 2015
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