

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

Date of decision:07.01.2015

Balvir Kaur and others

.....Petitioners

v.

Ramandeep Kaur

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.Sandeep Wadhawan,Advocate for the petitioners

Jaswant Singh,J.(Oral)

Petitioners/defendants 1,4 and 5 are in revision aggrieved by the order dated 28.10.2014 (P-4) passed by Civil Judge (Junior Division) Tarn Taran whereby in a suit for permanent injunction their defence has been struck off for not filing the written statement within statutory period.

At the time of hearing, it is submitted that respondent/plaintiff is daughter in law of petitioners 1 and 2 and estranged wife of petitioner no.3 who are stated to be residing in Hong Kong and she forcibly occupied the house owned by her in laws during their stay at Hong Kong. It is submitted that service of other defendants is yet incomplete and no substantial proceedings have taken place so far. Learned counsel for the petitioners has not been able to point out any perversity in the impugned order and only prayed for grant of one last opportunity to file the written statement in the interest of justice so

as to effectively decide the *lis* between the parties. It is submitted that the petitioners are also ready to compensate the respondent/plaintiff by way of payment of costs, as this Court may deem appropriate. Reliance has been placed on **Kailash v. Nankhu and others 2005(4) SCC 480 and Shaik Salim Haji Abdul Khyamsab v. Kumar and others 2006 (1) SCC 46**, to contend that the time limit of 30 days as prescribed under Order 8 Rule 1 CPC is directory in nature being in the realm of procedural law.

Hon'ble Supreme Court in both the cited cases has held that though obligation is cast on the defendants to file their written statement within the stipulated period, however, in the endeavour to expedite the hearing and disposal of the suits, the interests of defendants should not be sacrificed by denying them a right to put up their defence. In given cases on payment of compensatory costs and to meet the ends of justice, the Courts have the power to grant extension of time for filing the written statement.

After giving my thoughtful consideration to the facts noticed above and the ratio of the cited judgments, I deem it expedient in the interest of justice to grant the petitioners/defendants one last opportunity to file their written statement. This shall, however, be subject to payment of costs which are assessed at Rs.10,000/-.

Accordingly, present revision petition is allowed, the impugned order dated 28.10.2014(P-4) is set aside and the petitioners are granted one last opportunity to file written statement. This is

subject to payment of Rs.10,000/- as costs payable to respondent/plaintiff by way of demand draft.

This order has been passed without issuing notice to the respondent to avoid further delay in the matter and to save her from unnecessary litigation expenses. Moreover, she has been adequately compensated by way of payment of costs. However, if the respondent is still aggrieved by this order, she would be at liberty to seek recalling of the same.

07.01.2015
joshi

(Jaswant Singh)
Judge