

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

**CR No.7416 of 2014
Date of Decision: 27.07.2015**

Market Committee, Punhana

..... Petitioner

Versus

Arshad and another

..... Respondents

CORAM: HONBLE MR. JUSTICE M.M.S. BEDI

Present: Mr. Rishi Lal, Advocate
for the petitioner.

Mr. Deepender Singh, Advocate
for respondent No.1.

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

Vide impugned order dated 31.03.2014, the trial Court has ordered to strike off the defence of the defendant-petitioner on the ground of non-filing of the written statement within 90 days.

I have gone through the record of the case and find that the plaintiff-respondent No.1 has filed a suit for declaration and injunction against the State authorities including Market Committee, Punhana challenging recovery of annual interest on the installments on the basis of letter of possession.

The State authorities have been denied an opportunity to contest the claim of the plaintiff-respondent No.1. The Apex Court in *Kailash Vs. Nanhku and others, 2005(4) SCC 480* has laid down that it is within the ambit of jurisdiction of the Civil Court to extend time for filing written statement beyond 90 days as the provisions of Order 8 Rule 1 CPC are directory and not mandatory.

In the interest of justice, I deem it proper to not grant a fair opportunity to the petitioner to file the written statement. The petition is allowed and the impugned order dated 31.03.2014 is hereby set aside. The petitioner is granted one last opportunity to file written statement subject to payment of costs of Rs.5000/-. The trial Court shall fix a date for filing of the written statement by the petitioner. On payment of costs of Rs.5000/- only, the written statement will be permitted to be taken on record.

The parties are directed to appear before the trial Court on 22.08.2015.

27.07.2015
Bhumika

(M.M.S. BEDI)
JUDGE