

HIGH COURT OF CHHATTISGARH, BILASPUR

WP227 No. 290 of 2016

1. Bisahat Banjare S/o Late Jethu Banjare, Aged About 50 Years R/o Village Tamasivni, Tahsil Abhanpur, District Raipur Chhattisgarh

---- Petitioner

Versus

1. Tahluram S/o Kejaw Ram Sahu, Aged About 78 Years R/o Village Tamasivni, Tahsil Abhanpur, District Raipur Chhattisgarh
2. Chetan Banjare, S/o Late Jagdish Banjare, Aged About 35 Years R/o Village Tamasivani, Tahsil Abhanpur, District Raipur Chhattisgarh
3. State Of Chhattisgarh Through The Collector Raipur Chhattisgarh

---- Respondent

For Petitioner	Shri D.N. Prajapati, Advocate
For Respondent/State	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

22/08/2016

1. Petitioner/defendant No.1 is aggrieved by the order passed by the trial Court on 4-3-2016 whereby the trial Court has refused to accept the written statement preferred by the petitioner on 2-3-2016,
2. Bare perusal of the order sheets filed as Annexure – P/1 would reveal that the petitioner/defendant has filed his written statement on 2-3-2016, which was refused to be accepted on the ground that

since on 7-12-2015 his right to file written statement has already been closed, the petitioner is not entitled to file written statement.

3. It further appears, despite having passed the said order the trial Court posted the matter for filing of written statement, therefore, the petitioner availed the opportunity to submit the written statement on 2-3-2016.
4. Be that as it may, in **Kailash v. Nanhku**¹, the Supreme Court has held that outer limit of 90 days in filing the written statement is not mandatory, but is directory.
5. The present is not a case where on the date when the written statement was presented by the petitioner the suit had progressed further and the plaintiff's evidence has been recorded. The petitioner did submit his written statement before framing of issues or before the Court proceeded further in the matter in any other manner, therefore, the Court below ought to have accepted the filing of written statement.
6. For the foregoing, the writ petition is disposed of with a direction that if the petitioner submits his written statement within a period of one month from today and pay cost of Rs.2500/- to the plaintiff within the same period, the written statement shall be taken on record and the trial Court shall proceed thereafter, in accordance with law and on its own merits.

Sd/-

Judge
Prashant Kumar Mishra

Gowri

1 AIR 2005 SC 2441