

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

CR No.1377 of 2016 (O&M)

Date of decision: 23.02.2016

Atul Ruia

... Petitioner

versus

Brij Mohan and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Pankaj Gupta, Advocate for the petitioner.

K.Kannan, J. (ORAL)

It is a needless exercise undertaken by the petitioner to arrive before this Court when the defence was struck off. The Provision under Order 8 Rule 1 CPC delineating the period for filing the statement has been held to be directory by the decision of the Supreme Court in Salem Bar Association Vs. Union of India, 2005 (6) SCC 349. If the trial of the suit is still preliminary when objection has been taken by some other defendant for rejection of the plaint, it shall be open to the defendant to file the written statement along with the application to recall the order and allow the written statement to be received, if he sets out the reason on why he should not have filed the written statement earlier within the period of 90 days; If such an application is filed, the Court shall consider the justification given and pass appropriate orders either admitting the written statement or denying the same.

The revision petition is disposed of with the above observations.

**(K.KANNAN)
JUDGE**

23.02.2016

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