

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

CR-1699 OF 2016

DATE OF DECISION:-14.03.2016

BIMLA DEVI

...Petitioner

Vs.

RAMESH CHAND AND OTHERS

... Respondents.

CORAM: HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Mr. J.P. Jangu, Advocate
for the petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the order dated 19.10.2015 vide which the petitioner has been debarred from filing the written statement and reply to the stay application on the ground that more than 90 days have expired.

Learned counsel for the petitioner contended that the petitioner was to prepare the written statement on the basis of certain documents which were not available with her at that time. He contended that one opportunity of 7 days may be given to the petitioner to file the written statement otherwise her rights will be seriously prejudiced in the suit and she will not be able to effectively contest the suit.

I have duly considered the aforesaid contentions. It is the settled principle of law that the procedural law is handmaid of justice. The provisions of Order 8 Rule 1 of the Code of Civil Procedure, 1908 is directory in nature and the filing of the written statement beyond 90 days should be allowed to avoid extreme hardship but not in routine manner. To support this view, reference can be made to case '**Kailash Vs. Nanhku & Others 2005 Volume 2 RCR Civil 379 (SC)**'.

In the instant case, as contended by learned counsel for the petitioner, the petitioner could not file the written statement earlier as the documents which were needed to prepare the written statement were not available with her. The learned trial Court has itself adjourned the case on 15.07.2015 to 16.10.2015 for filing of written statement and reply on behalf of the defendants that is beyond the period of 90 days. If some more time would have been granted, no prejudice would have been caused to the rights of the plaintiff/respondent. It is further the settled principle of law that the rights of the parties should be decided on merits rather than technicalities. Thus, the petitioner should not be deprived of the opportunity to file the written statement and to effectively contest the suit. The suit is stated to be pending at the initial stage as only one witness of the plaintiff/respondent has been examined.

Thus, the present revision petition is hereby allowed. The petitioner is granted 7 days time from the date of this order to submit his written statement and reply to the stay application before the learned trial Court, subject to payment of Rs.10,000/- as cost. No notice is being issued to the respondents as it will only burden them with the cost of litigation and that will also cause unnecessary delay in the disposal of the revision petition as well as the suit.

14.03.2016
SwarnjitS

(DARSHAN SINGH)
JUDGE