

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No. 198 of 2016

Date of Decision:- 13.01.2016

Shukal Chand Vohra

....Petitioner

VERSUS

Raj Narain and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present:- Mr. Kiran Kumar, Advocate,
for petitioner.

SHEKHER DHAWAN, J.

Learned counsel for the petitioner challenged the order dated 18.07.2014, whereby defence of the petitioner/defendant was stuck off on account of non filing of written statement within stipulated period of 90 days.

2. Learned counsel for the petitioner mainly submits that he is ready to file written statement and one opportunity be given for the purpose. More so, before trial Court no evidence has been adduced by the respondent-plaintiff by now.

3. Learned counsel for the petitioner submits that documents were not supplied and as such reply could not be filed within the stipulated period. More so on 18.07.2014 District Bar Association had suspended the work and as such counsel could not appear in the Court and thereafter counsel was busy. Respondent No.1 was busy in the prepration of his marriage, therefore, written statement could not be filed, the same is now on the Court file. So, the order dated 21.03.2015 be set aside and he be

allowed to file the written statement.

4. Having considered the submissions made by counsel for the petitioner, this Court is of the considered view that the time limit of 90 days prescribed under Order VIII (1) has been fixed but the said provision is a part of procedural law. It is directory, keeping in view the need for expeditious trial of civil cases, which persuaded Parliament to enact the provision in its present form, the time schedule contained in the provision is to be followed as a rule and departure therefrom would be by way of exception. A prayer for extension of time made by the defendant is not to be granted just as a matter of routine and merely because it is asked for, more so when the period of 90 days has expired.

5. However, extension of time may be allowed by way of exception for reasons to be assigned by the defendant and also be placed on record in writing, howsoever briefly, by the Court on its being satisfied. Extension of time may be allowed if it is needed to be given in the circumstances which are exceptional, again by reasons beyond the control of the defendant and if grave injustice would be occasioned if the time is not extended. Such a view was also taken by Bombay High Court in case titled as Anil Kushabrao Phutane Vs. Madhukar Kushabrao Phutane, AIR 2006 Bom 1.

6. In view of the above, the present revision petition is accepted and order dated 21.03.2015 (Annexure P-1) is set aside and petitioner is given one opportunity to place on file the written statement in this case, before the trial Court.

January 13, 2016

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(SHEKHER DHAWAN)
JUDGE