

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

Civil Revision No.4607 of 2016

Date of decision : 02.09.2016

Col. Harjit Singh

.....Petitioner

Versus

Kulz Family Bar and others

...Respondents

CORAM : HON'BLE MR. JUSTICE DARSHAN SINGH

Present: Capt. Arun Sharma, Advocate for petitioner.

DARSHAN SINGH, J.

The present revision petition has been preferred against the orders dated 30.03.2016 and 13.05.2016 passed by learned Additional Civil Judge (Senior Devision), Kharar, whereby the opportunity has been granted to the respondents to file the written statement.

2. I have heard learned counsel for the petitioner and have gone through the paper-book carefully.

3. Learned counsel for the petitioner contended that the case is pending since long at the stage of filing the written statement. The written statement has not been filed by the respondents in spite of the fact that the Court had granted the last opportunity. The respondents have availed about six opportunities to file the written statement. He contended that on 24.08.2016, learned counsel for the respondents has wrongly pleaded before the trial Court that civil suit No.764 of 2015 is pending between the parties. Thus, he contended that the impugned orders passed by the learned trial

Court should be set aside and the defence of the respondents should be struck off.

4. I have duly considered the aforesaid contentions, but I do not find any substance in the contentions raised by learned counsel for the appellant.

5. The Hon'ble Supreme Court in case ***Kailash Vs. Nanhku and others 2005(2) RCR (Civil) 379*** has laid down that considering the objects and purpose behind enacting Rule 1 Order 8 of the Code of Civil Procedure, 1908 in the present form and context, it has to be construed as directory. The Court has power to extend time for filing the written statement even though the period of 90 days has expired for the reasons assigned by the defendant and recording in writing to the satisfaction of the Court.

6. In the instant case, no doubt the defendants-respondents were awarded last opportunity to file the written statement vide order dated 13.05.2016 and case was adjourned to 25.07.2016. On 25.07.2016 in view of the undertaking given by learned counsel for the defendant another opportunity was granted and the case was listed for 24.08.2016. On 24.08.2016, learned counsel for the defendants pleaded that he has already filed the written statement in civil suit No.764 of 2015 between the parties but due to personal reasons, he could not prepare the written statement in the present suit. Learned counsel for the petitioner has contended that that was not the suit between the parties but he has admitted the fact that respondent Kulz Family Bar was also a defendant in that suit and was

represented by the same counsel.

7. The learned trial Court has already taken care of the grievance of the petitioner as the learned trial Court has categorically mentioned that the adjournment has been granted in the interest of justice with a direction to supply the advance copy of the written statement to the plaintiff seven days prior, otherwise his defence shall be struck off. So, the learned trial Court has categorically mentioned that if the written statement is not filed on the next date of hearing and copy of the written statement is not supplied to the plaintiff seven days prior the defence of the respondents shall be struck off. There is nothing to doubt that the learned trial Court will not adhere to the stipulations/conditions mentioned in the impugned order dated 24.08.2016.

8. Thus, keeping in view my aforesaid discussion, I do not find any substance in the contentions raised by learned counsel for the petitioner.

9. Resultantly, no interference is called for by this Court in the impugned orders. So, the present revision petition, being devoid of merits, is hereby dismissed.

02.09.2016

sunil yadav

**(DARSHAN SINGH)
JUDGE**

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No