

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.5393 of 2016
Date of Decision.24.08.2016

Punjab and Sind Bank

.....Petitioner

Vs.

M/s Venus Marketing and Trainings and others

.....Respondents

Present: Ms. Manjari Joshi, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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AMIT RAWAL J. (ORAL)

The petitioner-defendant is aggrieved of the impugned order whereby the defence of the defendant has been struck off on account of the fact that written statement had not been filed despite availing several opportunities and the statutory period of 90 days has already been elapsed.

Ms. Manjari Joshi, learned counsel for the petitioner-defendant submits that the Courts should be liberal while interpreting the aforementioned provisions of Civil Procedure Code and should not be too harsh to strike off the defence of the defendant. The counsel for the petitioners-defendants undertakes to file the written statement at the next adjourned date, subject to terms and conditions.

I have heard learned counsel for the petitioners, appraised the paper book and of the view that as per the ratio decidendi culled out in the judgment of Supreme Court in **Salem Bar Association Tamil Nadu Vs. Union of India 2005(6) SCC 344**, the time period of 90 days for filing the

written statement as stipulated under Order 8 Rule 1 CPC is directory and not mandatory in nature. The aforementioned view has been reiterated by Hon'ble Supreme Court in **Kailash Vs. Nanku 2005(2) RCR (Civil) 379.**

For the foregoing reasons, I deem it appropriate to grant one more opportunity to the petitioner-defendant for filing the written statement at the next adjourned date before the Court below, subject to payment of costs of ₹5000/- which shall be condition precedent. If the costs is not paid as directed, the order passed already by the court below shall stand restored.

The impugned order is set aside and the revision petition is allowed, dispensing with notice to the respondents.

(AMIT RAWAL)
JUDGE

August 24, 2016
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No