

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

C.R. No.7098 of 2016
Date of Decision.22.10.2016

Municipal Council, Nangal

.....Petitioner

Vs

Pawan Kumar and others

.....Respondents

Present: Mr. H.K. Aurora, Advocate
for the petitioner.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioner-defendant No.2 is aggrieved of the impugned order whereby the defence of defendant No.2 has been struck off on account of the fact that written statement had not been filed within the statutory period of 90 days from the date of service of summons.

Mr. H.K. Aurora, learned counsel for the petitioner-defendant No.2 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 defendants at very early stage. The counsel for the petitioner-defendant No.2 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 petitioners-defendant No.2 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

October 22, 2016

Pankaj*

Whether reasoned/speaking Yes

Whether reportable No