

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

C.R. No.7797 of 2016

Date of Decision.21.11.2016

M/s Munim Di Hatti and another

.....Petitioners

Vs

M/s HRK Bros through its proprietor and another

.....Respondents

Present: Mr. Parveen K. Kataria, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

The petitioners-defendants are aggrieved of the impugned orders dated 7.9.2015 and 22.08.2016 (Annexures P-1 and P-2) whereby the defence of the defendants 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 as per Order 8 Rule 1 CPC and application for recalling of the order has also been dismissed.

Mr. Parveen K. Kataria, learned counsel for the petitioners-defendants 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 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

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-defendants 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 orders are set aside and the revision petition is allowed, dispensing with notice to the respondents.

(AMIT RAWAL)
JUDGE

November 21, 2016
Pankaj*

Whether reasoned/speaking	Yes
Whether reportable	No