

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

C.R. No.7903 of 2016

Date of Decision.23.11.2016

Raghubir Singh and others

.....Petitioners

Vs

Sadhu Singh and others

.....Respondents

Present: Ms. Sushma Varma Syal, 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 08.07.2016 (Annexures P-7) 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.

Ms. Sushma Varma Syal, 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 written statement as stipulated under Order 8 Rule 1 CPC is directory and

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 file the written statement within one week from the date of receipt of certified copy of this order, subject to payment of costs of ₹10000/- 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. A copy of this order be given to the counsel appearing for the petitioners under the signatures of Reader attached to this Court.

(AMIT RAWAL)
JUDGE

November 23, 2016
Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No