

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (227) No.612 of 2017

Shahid Khan, S/o Shri Abdul Rashid Khan, aged about 42 years, M/s Royal Construction Building Project Contractor, Station Para Ward No.13, Tahsil and District Rajnandgaon (CG).

---- Petitioner

Versus

Riya Marketing (Stakisht Century Cement) through Proprietor Sanjay Kotadiya, aged about 49 years, R/o Aara Machine Road, Rajnandgaon, Tahsil and District Rajnandgaon (CG).

--- Respondent

For Petitioner : Mr. Arvind Kumar Dubey, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal
Order On Board

30/08/2017

(1) Learned counsel appearing for the petitioner would submit that summons was served to the petitioner on 16.01.2017 and his opportunity to file written statement has been closed by the trial Court by not-granting adjournment vide orders dated 17.04.2017 and 03.05.2017. He would further submit that he is ready and willing to file written statment on or before 15.09.2017 and therefore, in the interest of justice, one opportunity may be granted to file written statement.

(2) I have heard learned counsel for the petitioner and perused the impugned order.

(3) In the matter of **Kailash Vs. Nanhku & Others**¹, Their Lordships of Supreme Court have held that the provision of Order 8 Rule 1 of CPC is directory and not mandatory in nature.

¹ (2005) 4 SCC 480

(4) In view of the aforesaid discussion in the matter of **Kailash** (supra), it would be expedient to allow the petitioner to file written statement. Consequently, the impugned order is set-aside and the time is extended upto 15.09.2017 to file written statement subject to payment of cost of Rs.2,000/- to the plaintiff. Further, no further time would be extended to file the same. However, the plaintiff is at liberty to file an application for modification of the order, if he is aggrieved.

(4) With the aforesaid observation, the writ petition stands finally disposed of. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge

L/-