

**In the High Court of Punjab and Haryana at Chandigarh**

**Civil Revision No. 2849 of 2015**

**Date of Decision: 20.11.2017**

Baljit Singh

.....Petitioner

Versus

Raj Kumari and others

.....Respondents

**CORAM: HON'BLE MRS. JUSTICE ANITA CHAUDHRY**

Present: Mr. Harkesh Manuja, Advocate  
for the petitioner.

Mr. Sandeep Kumar Sharma, Advocate  
for respondent No. 1.

\*\*\*\*

**ANITA CHAUDHRY, J**

This revision is directed against the order dated 27.3.2015 (Annexure P-5) as the defence of the petitioner has been struck off.

Few facts are necessary. A suit had been filed by the plaintiff seeking declaration and joint possession. A plea had been taken that the decree dated 28.10.1994 and the mutation entered thereupon were illegal.

Defendant No. 2 filed an application under Order 7 Rule 11 CPC. The lower Court dismissed that application on 13.2.2015. The case was fixed for filing the written statement. The case was adjourned twice but the written statement was not filed and their defence was struck off.

The submission on behalf of the petitioner is that a separate revision has been filed challenging the order passed on the application under Order 7 Rule 11 CPC and since they were contesting that application and the period of 90 days had expired and therefore their defence was

closed and one opportunity be given. It was urged that their sister had filed

a suit challenging the decree of 1994 and earlier she had filed a suit which after several years was withdrawn but liberty was granted to file another suit and the plaintiff had no cause of action nor the suit was brought within limitation and those were the objections taken by them. Counsel further urges that they have no intention to delay the proceedings.

The zimni orders have been perused. The connected matter is also fixed today. A number of objections have been taken therein. It appears that while the petitioners were contesting that application, they paid no heed to the fact that they were also to file the written statement. In the given circumstances, I feel that one opportunity should be granted to them to file the written statement and contest the case on merits.

The petitioner would appear before the trial Court on 11.12.2017. They are permitted to file the written statement on that day only and subject to deposit of Rs. 3,000/- which would be paid to the plaintiff. The petitioner would not be granted any adjournment. Since the matter has been delayed the endeavour of the Court would be to give short dates and dispose of the case early.

The petition is allowed.

**(ANITA CHAUDHRY)**  
**JUDGE**

**November 20, 2017**  
Gurpreet/Sunil

|                                  |          |            |
|----------------------------------|----------|------------|
| <b>Whether speaking/reasoned</b> | <b>:</b> | <b>Yes</b> |
| <b>Whether reportable</b>        | <b>:</b> | <b>No</b>  |