

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

C.R. No.113 of 2018

Date of Decision.11.01.2018

Kuldeep Kaur

.....Petitioner

Vs

Ashok Kumar Mittal

.....Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Kamalpreet Bawa, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner-defendant is aggrieved of the impugned order whereby the defence of the defendant 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. Kamalpreet Bawa, learned counsel for the petitioner-defendant 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 undertakes to file the written statement at the next adjourned date, subject to terms and conditions.

I have heard learned counsel for the petitioner, 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 petitioner-defendant for filing the written statement at the next adjourned date before the Court below i.e. 22.01.2018, 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

January 11, 2018
Pankaj*

Whether reasoned/speaking Yes

Whether reportable No