

112.

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CIVIL REVISION-1746-2018 (O&M)**

Date of decision:19.03.2018.

BALWAN SINGH

... Petitioner

Versus

OM PARKASH AND ORS.

.... Respondents

**CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA**

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Present: Mr. S.K. Verma, Advocate,  
for the petitioner.

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**HARI PAL VERMA, J.(Oral)**

**CM-5433-CII-2018**

Prayer in this application filed under Section 5 of Limitation Act is for condonation of delay of 30 days in filing the present revision petition.

For the reasons stated in the application, same is allowed and the delay of 30 days in filing the present revision petition is condoned.

**CIVIL REVISION-1746-2018**

Petitioner-defendant No.20 has filed present revision petition under Article 227 of the Constitution of India read with Section 151 CPC impugning the order dated 10.11.2017 (Annexure P-6) whereby the application filed by the petitioner to recall the order dated 10.07.2017 closing his defence, was dismissed.

Learned counsel for the petitioner has argued that respondent-plaintiffs have filed a suit for declaration as well as for mandatory

injunction, as detailed in the plaint. In the said suit, as many as 41

defendants have been added and petitioner is at number 20 as defendant. He has further argued that vide order dated 10.11.2017, the application filed by petitioner for recalling the order dated 10.07.2017 was dismissed. Vide order dated 10.07.2017, defence of the petitioner-defendant No.20 along with other defendants was struck off on the ground that despite effective opportunities, written statement had not been filed. He has also argued that even respondent-plaintiff had pointed out his "no objection" on the margin of the application to the effect that he has no objection in case the order dated 10.07.2017 is recalled. He has referred to various orders including the order dated 26.02.2018 to contend that as the number of defendants are about 41, not many defendants have filed their written statements so far and the other defendants No.16, 17, 22 & 31 have been proceeded ex parte. The suit is still at a initial stage. Petitioner is ready to adequately compensate the respondents, in case, one opportunity is granted to the petitioner-defendant No.20 to file his written statement and he undertakes to file such written statement within two weeks from today.

I have heard learned counsel for the petitioner.

Admittedly, defence of petitioner-defendant No.20 was struck off vide order dated 10.07.2017 by learned Civil Judge (Junior Division) Jind. Thereafter, petitioner had moved an application for recalling the order dated 10.07.2017 and in the meanwhile suit was adjourned many a times. The fact remains that the pleadings in the case are not complete and the evidence of plaintiffs is yet to begin with. Therefore, considering the nature of litigation between the parties and as there are numerous defendants, petitioner is afforded one more opportunity to file his written statement

this order. In case, petitioner files his written statement within the above said period, the trial Court shall take on record the same, however, that would be subject to payment of costs of ₹5,000/-.

Accordingly, present petition is disposed of.

The petition is being disposed of at this stage without issuing notice to the respondents, as it would further delay the proceedings. However, in case, respondent-plaintiffs still feel aggrieved by this order, they are at liberty to file application for recalling the present order.

**(HARI PAL VERMA)**  
**JUDGE**

19.03.2018  
sanjeev

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|----------------------------|--------|
| Whether speaking/reasoned? | Yes/No |
| Whether reportable?        | Yes/No |