

(119) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR No.1902 of 2018 (O&M)

Date of decision: 21.03.2018

State of Punjab and others

.... Petitioners

Versus

Avtar Singh

.... Respondent

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. Suveer Sheokand, Addl. A.G., Punjab.

B.S. Walia, J. (Oral)

[1] Challenge is to order dated 22.01.2018 passed by the learned trial Court striking off the defence of petitioners/defendants No.1 to 3 by taking into account that despite opportunity having been granted, written statement had not been filed within the stipulated period of 90 days.

[2] Learned counsel for the petitioners contends that the case is listed before the learned trial Court for evidence of the respondent/plaintiff on 23.03.2018 and that till date, no evidence has been recorded. Learned counsel further states that the written statement on behalf of the petitioners/defendants No.1 to 3 is ready and would be filed if one opportunity is granted. He further states that in view of the law laid down by the Hon'ble Supreme Court in **Shaik Salim Haji Abdul Khayamsab v. Kumar and others**, 2005 (4) RCR (Civil) 823; 2006 (1) SCC 46, Order 8 Rule 1 CPC is not mandatory but directory and that filing of written statement can be permitted beyond the period of 90 days if sufficient cause is shown. Learned counsel further states that although the written statement

was ready, but it could not signed on account of requirement to obtain prior sanction from the competent authority before filing of the written statement.

[3] Learned counsel for the petitioners states that in the circumstances, sufficient cause is made out for not having filed the written statement within the stipulated period of 90 days.

[4] I have considered the submissions of the learned counsel for the petitioners and am of the view that in the given circumstances, the revision petition can be disposed of at the motion stage by granting one opportunity to the petitioners to file written statement on the next date fixed before the learned trial Court i.e. 23.03.2018 subject to payment of ₹5000/- as costs to be paid to the respondent/plaintiff.

Revision petition stands disposed of as noted above.

(B.S. Walia)
Judge

21.03.2018
amit

1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.