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

CR-2026-2018

Date of decision : 27.03.2018

M/s Kudrat Hardware Store Thakurdwara and another

... Petitioner(s)

Versus

M/s Garg Distributors

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. S.K. Choudhary, Advocate
for the petitioners.

AMIT RAWAL, J. (ORAL)

The petitioners-defendants are aggrieved of the impugned order dated 06.03.2018 (Annexure P-2), whereby the defence of the defendants has been struck off on account of the fact that written statement had not been filed within the statutory period of 90 days.

Mr. Choudhary, learned counsel for the petitioners-defendants submits that the Court 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 petitioners-defendants undertakes to file the written statement at the next adjourned date i.e. on 28.03.2018, subject to terms and conditions.

I have heard learned counsel for the petitioners, 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 petitioners-defendants for filing the written statement at the next adjourned date i.e. on 28.03.2018 before the Court below, subject to payment of costs of ₹5,000/-, 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 respondent in order to defray the litigation expenses of the respondents-plaintiffs and save the court time.

27.03.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**