

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.223 of 2018

Date of Decision: January 16, 2018

Hardial Singh

...Petitioner

Versus

Gurjeet Singh & another

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.S.S.Panag, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the impugned order dated 31.8.2017, whereby his defence has been struck off on account of the fact that reply had not been filed and even the cost has not been paid.

Mr.S.S.Panag, learned counsel for the petitioner-defendant submits that the Courts should be liberal while interpreting the 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 reply on the next adjourned date, subject to terms and conditions so imposed by this Court.

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 reply on the next adjourned date before the Court below, 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.

January 16, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No