

CR No. 2489 of 2018

{1}

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

CR No. 2489 of 2018

Date of decision:25.05.2018

Narender

... Petitioner

Vs.

Choti Kanshi Jirnodwar Samiti and others ... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Abhimanyu Singh, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

The petitioner-defendant No.1 is aggrieved of the impugned order dated 15.02.2018, vide which the application for recalling of the order dated 19.07.2016 striking of the defence of petitioner/defendant No.1, was dismissed.

Learned counsel appearing on behalf of the petitioner-defendant No.1 submits that he was confined to bed due to which he was not able to contact his counsel with regard to preparation of written statement. He further submits that in case, one opportunity is granted, subject to any terms and conditions which this Court deems fit, the petitioner-defendant No.1 will file the written statement and no prejudice would be caused to the respondents, who shall be compensated in terms of costs.

I have heard learned counsel for the petitioner-defendant No.1 and appraised the paper book.

I am 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 No.1 for filing the written statement within a period of 15 days from today, subject to payment of costs of ₹5000/- which shall be condition precedent.

The impugned order is set aside and the revision petition is allowed, dispensing with notice to the respondents.

(AMIT RAWAL)
JUDGE

May 25, 2018
savita

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No