

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND  
HARYANA AT CHANDIGARH

C.R. No.2919 of 2018

Date of Decision.03.05.2018

Rulia Khan and another

...Petitioners

Vs

Shanti and others

...Respondents

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sukhdeep Parmar, Advocate  
for the petitioners.

-:-

AMIT RAWAL J.(ORAL)

The petitioners-defendants are aggrieved of the impugned order 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 from the date of service of summons.

Mr. Sukhdeep Parmar, learned counsel for the petitioners-defendants submits that the Courts 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, 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

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 before the Court below, subject to payment of costs of ₹5000/- in order to defray the cost of litigation, 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.

(AMIT RAWAL)  
JUDGE

May 03, 2018  
Pankaj\*

Whether reasoned/speaking      Yes

Whether reportable      No