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

CR No.3910 of 2018

Date of Decision: 01.06.2018

Ram Karan Yadav

....Petitioner

Vs

Hoshiyar Singh Lamba

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sandeep Kumar Rana, Advocate,
for the petitioner.

RAJ MOHAN SINGH, J.(Oral)

Petitioner has challenged the order dated 05.05.2018 passed by Civil Judge (Senior Division), Faridabad, vide which respondent was given opportunity to file written statement inspite of expiry of 90 days.

The provisions in terms of Order 8 Rule 1 CPC have been explained in **Kailash vs. Nanhku and others, 2005 (2) RCR (Civil) 379, Sandeep Thapar vs. SME Technologies Private Limited, 2014(1) RCR (Civil) 729** and **Salem Advocate Bar Association, Tamil Nadu vs. Union of India, AIR 2005 SC 3353**, holding that provision in terms of Order 8 Rule 1 CPC does not impose any embargo on the powers of the Court to extend time for filing written statement beyond the

period of 90 days. It is a rule of procedure and has to be treated as directory even though the same has been couched in mandatory overtone. The provision has to be applied with some flexibility.

The Court can allow filing of written statement even after expiry of 90 days, subject to payment of adequate costs.

In view of nature of order being passed by this Court, there is no necessity of calling upon any response from the respondent, as it would delay disposal of the present revision petition as well as the suit.

On merits of the case, this Court does not incline to interfere but on the fact that no cost was imposed by the trial Court while allowing the filing of written statement, I deem it appropriate to direct the respondent-defendant to pay a costs of Rs.10,000/- to the plaintiff for the omission in the context of not filing written statement in time.

Consequently, this revision petition is disposed of with the aforesaid modification in the impugned order.

Payment of costs shall be the condition precedent for granting indulgence by the trial Court in the context of placing the written statement on record.

In case, respondent-defendant has any objection to the payment of costs, he would be at liberty to file application in

the present revision petition for revival of the petition.

Disposed of.

01.06.2018
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No