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

**Civil Revision No.4577 of 2018
Date of Decision: 20.07.2018**

Ram

.....Petitioner

Vs

Malkiat Kaur and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Mandeep Singh Dhaliwal, Advocate
for the petitioner.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has assailed the order dated 15.05.2018 passed by the Addl. District Judge, Sangrur vide which defence of the petitioner/respondent No.1(iii) before the Court below was struck off for want of written statement.

Learned counsel for the petitioner by referring to the interlocutory orders dated 11.04.2018, 19.04.2018, 21.04.2018 and 03.05.2018 submitted that effort regarding compromise between the parties was in offing and the written statement could not be filed due to said reason.

Keeping in view the controversy of the present nature, I deem it appropriate to decide this revision petition without

calling upon the respondents at this stage as issuance of notice would further delay in disposal of the case. However, cause of the respondents can best be taken care by way of imposing adequate costs on the petitioner.

The provisions of Order 8 Rule 1 CPC has to be liberally construed being directory in nature. In appropriate case, the Court can extend the time for filing written statement by recording its satisfaction. Even the defendant can be put to terms including imposition of adequate costs.

The parameters on which discretion has to be exercised is based on the conduct of defaulting party. In the instant case, the interlocutory orders dated 11.04.2018, 19.04.2018, 21.04.2018 and 03.05.2018 shows that the Court below has recorded the intended effort in the context of compromise, therefore, the conduct of defaulting party cannot be taken to be such as it would deny him the extension of time for filing written statement.

In **Kailash vs. Nanhku & Ors., 2005(2) RCR (Civil) 379**, followed in **Sandeep Thapar vs. SME Technologies Private Limited, 2014(1) R.C.R. (Civil) 729** it was held that the 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, of course such

power has to be exercised in special circumstances.

In Salem Advocate Bar Association, Tamil Nadu vs. Union of India, AIR 2005 SC 3353 the similar proposition was reiterated by the Hon'ble Apex Court with reference to the provision being rule of procedure and the same has to be treated as directory even though the same has been couched in a mandatory overtone. The provision has to be applied with some laxity and flexibility.

In view of above, the impugned order dated 15.05.2018 passed by the Addl. District Judge, Sangrur is set aside. This revision petition is allowed, subject to payment of Rs.15,000/- as costs to be paid to the respondents.

Payment of costs shall be the condition precedent for granting indulgence by the Addl. District Judge, Sangrur in the aforesaid context.

July 20, 2018

Atik

(RAJ MOHAN SINGH)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No