

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.4775 of 2017
Date of Decision: November 19, 2018

Anil Kumar

...Petitioner

Versus

Smt.Jasbir Kaur

...Respondent

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr. Rajinder Sharma, Advocate,
for the petitioner.

AMIT RAWAL, J. (Oral)

The petitioner-defendant is aggrieved of the impugned order dated 05.12.2016, whereby his defence 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 as per Order 8 Rule 1 CPC and order dated 23.05.2017, whereby the application for recalling was also dismissed.

Mr.Rajinder Sharma, learned counsel for the petitioner-defendant 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 on the next adjourned date, subject to terms and conditions.

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 file the written statement within one week from the date of receipt of certified copy of this order, subject to payment of costs of ₹5,000/- 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 orders are set aside and the revision petition is allowed.

November 19, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned
Whether Reportable:

Yes/No
Yes/No