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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-6417-2016

Date of decision : 23.02.2018

Kajal Bhatia

... Petitioner(s)

Versus

Anu Dhawan and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Ajay Ghanghas, Advocate
for the petitioner.

Mr. Vikas Kumar, Advocate
for respondent No.1.

AMIT RAWAL, J. (ORAL)

The petitioner-defendant is aggrieved of the impugned order dated 15.07.2015 (Annexure P-2) and order dated 05.07.2016 (Annexure P-5), whereby his defence has been struck off on account of non-filing of written statement.

Learned counsel for the petitioner-defendant submits that the Court below should be liberal while interpreting the provisions of Civil Procedure Code and should not be too harsh to strike off the defence of the defendant at very early stage. The counsel for the petitioner-defendant undertakes to file the reply within a period of 15 days, subject to terms and conditions so imposed by this Court.

Learned counsel for the respondent(s) submits that the impugned orders are perfectly legal and justified and do not call for

interference as the petitioner-defendant was negligent in not filing the written statement within prescribed time, thus, urges this Court for dismissal of the present revision petition with exemplary cost.

I have heard learned counsel for the parties, 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 the petitioner-defendant for filing the written statement within a period of 15 days from the date of the receipt of the 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 orders passed already by the Court below shall stand restored.

Learned counsel for the respondent(s) shall file the replication within 15 days thereafter.

The impugned order is set aside and the revision petition is allowed.

23.02.2018
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**