

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

C.R. No.7644 of 2017

Date of Decision.01.11.2018

Dharampal

.....Petitioner

Vs

Raj Singh

...Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Sumit Sangwan, Advocate
for the petitioner.

Mr. Vikrant Rana, Advocate
for the respondent.

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AMIT RAWAL J. (ORAL)

The petitioner-defendant is aggrieved of the impugned order dated 14.08.2017 whereby defence of the defendant 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. Sumit Sangwan, 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 defendant at very early stage. The counsel for the petitioner-defendant undertakes to file the written statement within a stipulated time as fixed by this Court.

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 the petitioner-defendant for filing the written statement within a period of two weeks from the date of receipt of certified copy of this order. The costs of ₹5000/- deposited by the petitioner in pursuance of order dated 06.11.2017 with the registry of this Court is ordered to be released in favour of the respondent-plaintiff.

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

(AMIT RAWAL)
JUDGE

November 01, 2018

Pankaj*

Whether Reasoned/Speaking Yes/No

Whether Reportable Yes/No