

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No.8404 of 2016
Date of Decision: April 25, 2018

Shakti Singh & another

...Petitioners

Versus

Vijender & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL

Present: Mr.Mohan Singla, Advocate,
for the petitioners.

None for the respondents.

AMIT RAWAL, J.

The petitioner-defendants are aggrieved of the impugned order, whereby their 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.

Mr.Mohan Singla, learned counsel for the petitioner-defendants submits that in the application for recalling of the order dated 2.4.2016, it was specifically mentioned that Shri Brijesh Sharma, Advocate, who was engaged by them, had already been appointed as Assistant Advocate General, Haryana and no information could be given to the petitioners with regard to filing of written statement. He also submitted that the Courts should be liberal while interpreting the 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, which this Court deems fit.

There is no representation on behalf of the respondents.

I have heard learned counsel for the petitioners, 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-defendants for filing the written statement on the next adjourned date before the Court below, subject to payment of costs of ₹5000/- which shall be condition precedent. If the costs is not paid as directed, the order already passed by the court below shall stand restored.

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

April 25, 2018
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No