

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

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**Civil Revision No.7019 of 2019 (O&M).
Date of Decision: 06.11.2019.**

Kamla

....Petitioner.

Versus

Mukesh

....Respondent.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Jatin Hans, Advocate for the petitioner/defendant.

Lalit Batra, J.(Oral)

This civil revision has been filed by petitioner/defendant impugning the legality of order dated 10.09.2019 rendered by trial Court in Civil Suit No.186 of 2019 titled “Mukesh vs. Smt. Kamla”, in terms of which, on failure of petitioner/defendant to file written statement within stipulated period of 90 days as well as on account of non payment of costs of ₹200/-, then while taking recourse to the provisions of Order VIII Rule 1 CPC, defence of petitioner/defendant was struck off and after framing of issues, above said civil suit was adjourned for recording evidence of plaintiff.

I have heard learned counsel for the petitioner and have also gone through the contents of petition especially the documents placed on the record.

Learned counsel for the petitioner/defendant submits that costs of ₹200/- has already been deposited in favour of District Legal Services Authority, Bhiwani, and to this effect receipt (Annexure P-2) has been placed on record.

Keeping in view basic principle of law that everyone has right of hearing and, thus, no one should be condemned unheard, in this scenario petitioner/defendant should not have been deprived of her legal right to defend her cause. Since written statement is a basic document to substantiate the cause of a particular litigating party, petitioner/defendant should be permitted to file written statement. Resultantly, impugned order dated 10.09.2019 is set aside. However, it is made clear that learned trial Court would grant only one opportunity to petitioner/defendant to file written statement and the said opportunity would only be available to petitioner/defendant, subject to deposit of costs of ₹5000/- (₹Five Thousand only) by her favouring District Legal Services Authority, Bhiwani.

In these terms, instant civil revision is allowed accordingly.

(LALIT BATRA)
JUDGE

06.11.2019

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Whether speaking/ reasoned : Yes/ No

Whether Reportable : Yes/ No