

**Sr. No.216 (Heard through video conferencing)
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.2116 of 2020(O&M)
Date of Decision: 20.04.2021**

Ashok Singla

...Petitioner

Vs.

Baljit Singh & Anr.

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Vinay Puri, Advocate,
For the petitioner.

Mr. Deepak Singh Saini, Advocate
For the respondents.

ARUN MONGA, J. (ORAL)

1. Petitioner assails an order dated 03.03.2020 passed by the Learned Civil Judge (Junior Division), Kharar striking off his defense in the pending rent petition filed by respondent Baljeet Singh.

2. Learned counsel for the petitioner submits that petitioner caused appearance on 16.05.2019. He had initially taken adjournments on 18.07.2019 and 11.09.2019 as he was not in a position to file the reply for want to copy of paper book and the documents appended in support thereof. Instead of supplying the same, the respondent-landlord filed an application for striking the defense of the petitioner-tenant. Reply to the same was filed by the petitioner on 25.11.2019. However, the trial Court allowed the application of the respondent-landlord vide impugned order dated 03.03.2020 and struck off his defense by recording that mandatory period of 90 days has already expired.

3. According to learned counsel, impugned order has resulted into grave miscarriage of justice and for effective adjudication of the case, the petitioner may be permitted to file his written statement in the interest of

4. He further submits that Rules of procedure are handmaids of justice and cannot be allowed to thwart real and substantial justice between the parties. According to learned counsel, the respondent-landlord is yet to adduce evidence and no prejudice would be caused if the petitioner is permitted to file written statement.

5. I have heard learned counsel for the parties and perused the case file.

6. I am of the view that provision of Order 8 Rule 1 CPC, ordinarily ought to be adhered to, but the Court below could have permitted to file written statement subject to certain penalty as a deterrent. Even otherwise, provision contained in Order 8 Rule 1, *ibid*, has been held to be directory in nature by Supreme Court in *Salem Bar Association Vs. UOI, 2005(6) SCC 344*. The Courts should not, therefore, be too harsh to strike off the defense at such an early stage as the case in hand.

7. The counsel for the petitioner-defendant undertakes to file the written statement at the next adjourned date.

8. For the foregoing reasons, I deem it appropriate to grant one last opportunity to the petitioner-defendant for filing the written statement, subject to costs of Rs.10,000/- to be paid to the respondent-landlord, which shall be a condition precedent. If the cost is not paid as directed, the order passed already by the court below shall stand restored. To that extent, the impugned order is modified and the revision petition is allowed.

April 20, 2021
Jiten

(ARUN MONGA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No