

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

CR-924-2019
Date of Decision:-**18.08.2023**

GRAM PANCHAYAT BHAI KERA THROUGH ITS SARPANCH NAMELY
MUKHTIAR KAUR, 63 YRS, W/O RAM CHAND

... Petitioner(s)

Versus

PREM KUMAR AND OTHERS

... Respondent(s)

-. -

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

-. -

Present:- Mr. Surinder Garg, Advocate
for the petitioner.

Respondents No.1 to 7, 11, 14, 15, 17 to 23, 26, 29 to 31, 33, 34,
36, 38, 40 to 45 are ex-parte.

-. -

KARAMJIT SINGH, J. (Oral)

1. The present revision petition has been filed by the petitioner/defendant No.1 against the order dated 16.7.2018 (Annexure P-3), passed by the Court of Civil Judge (Junior Division), Gidderbaha, in civil suit titled Prem Kumar and Ors. vs. Gram Panchayat and Ors. having CIS No. CS-088-2017, whereby the defence of the petitioner has been struck off.
2. The counsel for the petitioner, *inter alia*, submits that the aforesaid civil suit has been filed by Prem Kumar and Ors. against the petitioner for grant of decree of permanent injunction restraining the gram

panchayat and other official defendants and three private persons from interfering into their peaceful possession over the suit property. The petitioner put in his appearance in the learned trial Court on 25.4.2017 and thereafter the impugned order was passed by the learned trial Court on the ground that the petitioner failed to file written statement within stipulated period and consequently the defence of the petitioner was struck off. The counsel for the petitioner further submits that it was not the intention of the petitioner to delay the proceedings, but due to unavoidable circumstances, the petitioner failed to file the written statement within the stipulated period. It is further contended that petitioner is the main defendant against whom relief has been sought by the plaintiffs and if the petitioner is not allowed to file written statement, the rights of the petitioner are going to be prejudiced. So prayer is made that one last opportunity be granted to the petitioner to file its written statement.

3. I have considered the submissions made by counsel for the petitioner.
4. Proviso to Rule 1 Order 8 CPC is directory and not mandatory in nature and the time limit provided under statute for filing the written statement in civil proceedings could be extended by the Court. In **Bharat Kalra Vs. Raj Kishan Chhabra 2022(3) Apex Court Judgments (SC) 598**, the Hon'ble Supreme Court condoned delay of 193 days in filing of written statement. Again the Hon'ble Apex Court in **Raj Process Equipments & Systems Pvt. Ltd. & Ors. Vs. Honest Derivatives Pvt. Ltd. 2023(1) RCR(Civil) 511** has reiterated that the

time limit provided under statute for filing of a written statement is directory and not mandatory in nature.

5. In the light of settled position of law, as discussed above, the present petition is allowed and impugned order is set aside and one last opportunity is granted to the petitioners to file written statement within next 30 days subject to costs of `7,500/- which is to be paid by the petitioner to the respondents at the time of filing of the written statement.

18.08.2023
Manisha

(KARAMJIT SINGH)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No