

Civil Revision No. 3574 of 2023

2023:PHHC: 062395

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

Civil Revision No. 3574 of 2023(O&M)

Date of Decision: 03.07.2023

Shiromani Gurdwara Parbandhak Committee & Ors.

...Petitioners

Versus

Rajesh Kumar & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. M.S. Virk, Advocate

For the petitioners.

KARAMJIT SINGH, J.

Petitioners/ defendants have filed the present revision petition against order dated 14.03.2023 passed by the learned Additional Civil Judge (Sr. Divn.), Amloh, District Fatehgarh Sahib whereby the defence of the petitioners has been struck off in civil suit titled Rajesh Kumar Vs. State of Punjab & Ors.

I have heard learned counsel for the petitioner.

Order 8 Rule 1 CPC provides that the defendant shall, within thirty days from the date of service of summons, may file the written statement of his defence. However, the proviso to this Rule further provides that if the defendant does not file the written statement within the said period of thirty days, he shall be permitted to file the same on such day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.

The Hon'ble Supreme Court in **Shaikh Salim Haji Abdul**

Khayumsab v. Kumar and others 2005(4) RCR (Civil) 823 has held that

the Court can permit the defendant to file the written statement even beyond 90 days.

No doubt the petitioner was somewhat negligent in filing the written statement, well in time, but this Court is of the considered opinion that if an opportunity to file the written statement is not afforded to the petitioner, he will certainly suffer an irreparable loss. Rules and procedure are handmaid of justice. These are meant to enhance the cause of justice and not to scuttle the same. Their Lordships of the Supreme Court in **Sardar Amarjit Singh Kalra (dead) by LRs and Ors. Vs. Parmod Gupta (Smt.) (dead) by LRs and Ors. 2003(3) SCC 272**, in para 26 of the judgment had opined as under:-

“Laws of procedure are meant to regular effectively, assist and aid the object of doing substantial and real justice and not to foreclose even an adjudication on merits of substantial rights of citizen under personal, property and other laws. Procedure has always been viewed as the handmaid of justice and not to hamper the cause of justice or sanctify miscarriage of justice.”

Further, in the instant case it has been brought to the notice of this Court that the suit is at its initial stage, so no prejudice is going to be caused to respondent No.1/ plaintiff. Furthermore, the counsel for the petitioners has apprised the Court that the written statement is ready and one last opportunity be granted to the petitioners to file the same in the concerned Court.

Accordingly, this revision petition is allowed and order, under challenge, is set aside. The trial court is directed to permit the petitioners to place on record written statement. This order is subject to payment of costs

of Rs.20,000/-, which shall be deposited by the petitioners with the District Legal Services Authority concerned before filing the written statement.

Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. If respondents are summoned to contest this litigation, they will have to incur huge expenses to defend this case. However, liberty is granted to the respondents that if they feel dissatisfied with this order, they may move an application to recall the same.

The petition stands allowed accordingly.

(KARAMJIT SINGH)
JUDGE

03.07.2023
Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No