

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

**Civil Revision No. 4640 of 2023(O&M)
Date of Decision: 18.08.2023**

Pankaj Kumar Garg & Ors.

...Petitioners

Versus

Sanya Jain @ Shaloo Aggarwal

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Ritesh Tomar, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioners/defendants against the order dated 19.04.2023 (Annexure P-4) passed by the Court of Civil Judge (Jr. Divn.), Faridabad, in civil suit titled Sanya Jain @ Shaloo Aggarwal Vs. Pankaj Kumar Garg & Ors. having CIS No. CS-1602 of 2022, whereby the defence of the petitioners has been struck off.

2. The counsel for the petitioners, *inter alia*, submits that the aforesaid civil suit has been filed by the respondent against the petitioners and on receipt of notice the petitioners put in their appearance on 29.11.2022 and thereafter an application under Order 7 Rule 11 CPC was filed by the petitioners and the same was also dismissed by the learned trial Court vide impugned order whereby the defence of the petitioners was also struck off. The counsel for the petitioners further submits that there was no intentional delay on the part of the petitioners to file their written statement and it will cause grave prejudice if the petitioners are not permitted to file the written statement.

3. I have considered the submissions made by counsel for the petitioners.

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 15 days subject to costs of Rs.7500/- which is to be paid by the petitioners to the respondent at the time of filing of the written statement.

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

(KARAMJIT SINGH)
JUDGE

18.08.2023

Jiten

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No