

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR- 6071 of 2023(O&M)
Date of Decision: 11.10.2023

Nishan Singh & Ors.

...Petitioners

Versus

Gulwinder Singh & Ors.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Mr. Sharad Mehra, Advocate
For the petitioners.

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioners/ defendants against the order dated 14.09.2023 (Annexure P-1) passed by the Court of learned Civil Judge (Jr.Divn.), Tarn Taran whereby an application filed by the petitioners for recall/ review of order dated 21.03.2022 (Annexure P-4) has been dismissed.

2. The counsel for the petitioners submits that on receiving the notice of suit, petitioners appeared before the learned trial Court for the first time on 24.08.2021 and thereafter suit was adjourned from time to time for effecting the service of the remaining defendants and at that time due to Covid-19 situation the Courts were working in restricted mode and as such the petitioners failed to file their written statement within the prescribed statutory period and finally their defence was struck off by the learned trial Court vide order dated 21.03.2022 (Annexure P-4). Subsequently, the petitioners filed an application for review/ recall of the said order dated 21.03.2022 but the same was dismissed by the learned trial Court vide order

dated 14.09.2023 (Annexure P-1). The counsel for the petitioners further submits that there was no intention on the part of the petitioners to prolong the proceedings in the suit. The counsel for the petitioners further made prayer that one last opportunity be given to the petitioners to file the written statement as the suit is at its initial stage and till date no witness on behalf of the other party has been examined and thus, no prejudice is going to be caused to the plaintiff/ respondent No.1.

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. Further, it is settled law that the procedural laws are meant for imparting substantial justice and should not be invoked to obstruct the judicial proceedings simply on hyper-technical grounds.

6. In light of the above, this Court is of the considered opinion that the impugned order is liable to be set aside. Consequently, without commenting on the merits of the case, the instant revision petition is allowed and impugned orders Annexure P-1 and Annexure P-4 are set aside and

petitioners are granted one opportunity to file their written statement subject to cost of Rs.7000/- which is to be paid to the other party on the next date of hearing.

7. Keeping in view the nature of order being passed, no notice is required to be issued to the respondents. However, if they feel dis-satisfied with this order, they may move an application to recall the same.

11.10.2023

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No