

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

**Civil Revision No. 6291 of 2023(O&M)
Date of Decision: 19.10.2023**

Gopal Vashisht

...Petitioner

Versus

Raman Gupta & Anr.

...Respondents

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Shiv Kumar, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/defendant No.2 against the order dated 16.08.2023 (Annexure P-2) passed by the Court of Civil Judge (Jr. Divn.), Faridabad in civil suit titled Raman Gupta Vs. M/s Shiva Motors & Anr., having CIS No. CS-954 of 2023, 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 the respondent No.1 against the petitioner and respondents No.2 and on receipt of notice the petitioner put in their appearance on 16.05.2023 and then the case was adjourned to 02.08.2023 for filing of written statement and then adjourned to 16.08.2023 for the same purpose and when the petitioner failed to file the written statement, the learned trial Court passed impugned order whereby the petitioner was precluded from filing written statement. The counsel for the petitioner further submits that there was no intentional delay on the part of the petitioner to file the written statement and it will cause grave prejudice if the petitioner is not permitted to file the written statement. So, prayer is made that one more

opportunity be given to the petitioner to file the written statement and that the written statement is ready for filing.

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 petitioner to file written statement within next four weeks subject to costs of Rs.7500/- which is to be paid by the petitioner to respondent No.1 on the next date of hearing before 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 contesting party i.e. respondent No.1. If respondent No.1 is summoned to contest this litigation, he will have to incur huge expenses to defend this case. However, liberty is granted to the respondent No.1 that if he feels dissatisfied with this order, he may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

19.10.2023
Jiten

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