

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

**Civil Revision No. 6559 of 2023(O&M)
Date of Decision: 03.11.2023**

Punjab State Power Corporation Limited & Ors.

...Petitioners

Versus

Kamaljit Kaur

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Pratap Singh Gill, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioners/defendants against the order dated 29.10.2021 (Annexure P-2) wherein the defence of the petitioners was struck off and order dated 10.05.2022 (Annexure P-3) whereby an application filed by the petitioners for recall/setting aside of order dated 29.10.2021 (Annexure P-2) has been dismissed by the Court of Additional Civil Judge(Sr.Divn.), Patiala.

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 20.02.2020 and thereafter suit was adjourned from time to time to file the written statement but in the meantime due to spread of Covid-19 infection, 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 29.10.2021 (Annexure P-2). Subsequently, the petitioners filed an application for review/ recall of the said order dated

29.10.2021 but the same was dismissed by the learned trial Court vide order dated 10.05.2022 (Annexure P-3). 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 thus, no prejudice is going to be caused to the plaintiff/ respondent.

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 orders are 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-2 and Annexure P-3 are set aside and

petitioners are granted one opportunity to file their written statement subject to cost of Rs.7500/- 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 respondent. However, if she feel dis-satisfied with this order, she may move an application to recall the same.

03.11.2023

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(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No