

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

**Civil Revision No. 6772 of 2023(O&M)
Date of Decision: 09.11.2023**

Mr. Jagjot Singh

...Petitioner

Versus

Mrs. Pawan Preet

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Pawan Sankhla, Advocate and
Mr. Lalit Sankla, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present petition has been filed by the petitioner/ plaintiff against the order dated 16.10.2023 (Annexure P-1) passed by the Court of Family Court concerned wherein the application filed by the petitioner for striking of the defence of respondent in case titled Jagjot Singh Vs. Pawan Preet & Ors., has been dismissed.

2. The counsel for the petitioner while assailing the impugned order, *inter alia*, contends that respondent put in her appearance in the aforesaid case for the first time before the Family Court on 28.01.2022 and failed to file written statement till 16.10.2023 and the trial Court kept on granting adjournments without keeping in mind the statutory provision of Order 1 Rule 8 CPC and the written statement filed by the respondent was taken on record even after the expiry of the prescribed statutory period. It is further contended that the respondent also failed to pay the costs which were imposed by the trial Court on the earlier dates of hearing. The counsel for

the petitioner further submits that thus the impugned order is liable to be set aside being not passed in consonance with the aforesaid statutory provision.

3. I have heard the counsel for the petitioner.

4. From the perusal of the documents available on the file it is evident that on receiving the notice, respondent appeared in the trial Court for the first time on 28.01.2022. However, at that time, the Court were functioning in restricted mode and the trial Court adjourned the case to 26.08.2022 for filing of written statement and thereafter the case was adjourned from time to time for the same purpose and certain costs were also imposed as the respondent failed to file written statement. On 16.10.2023 petitioner filed an application with prayer that defence of the respondent be struck off. However, on the same date written statement was filed by the respondent and consequently the said application was dismissed on that very date.

5. 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.

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

7. For the aforesaid reasons, without expressing any opinion on the merits of the case, the present petition is hereby dismissed being devoid of merits. However, in case the respondent has failed to pay the costs imposed by the learned trial Court, the payment of the same should be positively made by the respondent by the next date fixed in the trial Court.

09.11.2023

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No