

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

Civil Revision No. 6837 of 2023(O&M)

Date of Decision: 15.11.2023

Hassan Khan @ Hassan Manak

...Petitioner

Versus

Inderjit Singh

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Kanwaljeet Singh, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/defendant against the order dated 12.10.2023 (Annexure P-6) whereby the defence of the petitioner has been struck off by the Court of Civil Judge (Jr.Divn.), Ludhiana in civil suit No. CS-333 of 2023 titled Inderjit Singh Vs. Hassan Khan.

2. The counsel for the petitioner submits that on receiving the notice of suit, petitioner appeared before the learned trial Court for the first time on 29.05.2023 and the case was adjourned to 26.07.2023 and then to 06.09.2023 for filing of written statement. That on 06.09.2023 the suit was adjourned to 12.10.2023 for the same purpose. However, the Clerk of the counsel for petitioner noted down wrong date as 18.10.2023 and as such the petitioner failed to file his written statement on the date fixed i.e. 12.10.2023 and consequently the impugned order was passed by the learned trial Court. The counsel for the petitioner further submits that there was no intention on the part of the petitioner to prolong the proceedings in the suit. The counsel for the petitioner further made prayer that one last opportunity be given to

the petitioner 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 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. Further, it is settled law that the law of procedure is handmaid to advance the substantial justice and the Court has to give preference to the same over the procedural technicalities to further the cause of justice. So, it would not be unjustified to grant one more opportunity to the petitioner to file written statement in order to defend the suit but the same will be subject to cost.

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 order Annexure P-6 is set aside and petitioner is granted one opportunity to file the written statement subject to cost of Rs.10,000/- 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 he feels dis-satisfied with this order, he may move an application to recall the same.

15.11.2023
Jiten

(KARAMJIT SINGH)
JUDGE

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