

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

Civil Revision No. 7302 of 2023(O&M)

Date of Decision: 05.12.2023

Joginderpal Sareen & Anr.

...Petitioners

Versus

Sunil Chopra

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Chandan Singh Rana, Advocate with
Ms. Sonia Parmar, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioners/defendants against the order dated 02.11.2023 (Annexure P-6) whereby the defence of the petitioners has been struck off by the Court of Civil Judge (Jr.Divn.), Jalandhar in civil suit No. CS-3153 of 2022 titled Sunil Chopra Vs. Joginder Pal Sareen & Ors.

2. The counsel for the petitioners submits that on receipt of notice of suit, the petitioners through their counsel appeared in the learned trial Court for the first time on 30.01.2023. Thereafter, the suit was adjourned from time to time for filing of written statement and on 04.05.2023 petitioners filed an application under Order 7 Rule 11 CPC for rejection of plaint. The said application remained pending till 21.08.2023 and thereafter the impugned order was passed on 02.11.2023 (Annexure P-6) by the learned trial Court whereby the defence of the petitioners was struck off. 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 advancing substantial justice and should not be invoked to obstruct the judicial proceedings simply on technical grounds.

6. In light of the above, this Court is of the considered opinion that the impugned order whereby the petitioners are precluded from filing their written statement at the threshold of the suit filed against them by the respondent, is liable to be set aside being harsh. 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 petitioners are 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.

(KARAMJIT SINGH)
JUDGE

05.12.2023
Jiten

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