

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

**Civil Revision No. 7275 of 2023(O&M)
Date of Decision: 04.12.2023**

M/s Manthan Foods Pvt. & Ors.

...Petitioners

Versus

M/s Crown Milk Specialities Pvt. Ltd.

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Padmakant Dwivedi, Advocate
For the petitioners.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioners/defendants against the order dated 15.11.2023 (Annexure P-2) wherein the defence of the petitioners has been struck off by the Court of Addl. Civil Judge (Sr.Divn.), SAS Nagar, Mohali in civil suit No. CS-864 of 2022 titled M/s Crown Milk Specialties Pvt. Ltd. Vs. M/s Manthan Foods Pvt. Ltd.

2. The counsel for the petitioner submits that on receiving the notice of suit, petitioners through their counsel appeared before the learned trial Court for the first time on 29.03.2023. The petitioners are residents of Gwalior (M.P.) and they were under impression that pleadings are permissible in Hindi language as is there in Madhya Pradesh. Accordingly, written statement was prepared in Hindi language to be filed in the trial Court, on which the petitioners came to know that written statement is permissible to be filed in English or Punjabi language in State of Punjab and as such the petitioners failed to file written statement within the stipulated period and consequently

impugned order was passed on 15.11.2023 (Annexure P-2) was passed 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 hyper-technical grounds.

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-2 is set aside and petitioners are granted one opportunity to file the written statement subject to cost of Rs.8,000/- 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 respondent feels dissatisfied with this order, respondent may move an application to recall the same.

04.12.2023

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No