

125

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

CR-7541-2023

Date of decision: 14.12.2023

Municipal Corporation, Gurugram

...Petitioner

Versus

Bijender Singh and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KARAMJIT SINGH

Present: Mr. Arvind Seth, Advocate for the petitioner.

KARAMJIT SINGH, J. (ORAL)

1. The present revision petition has been filed by the petitioner/defendant No.5 seeking setting aside off order dated 23.08.2022 Annexure P-2 whereby on account of non filing of written statement, within the statutory period, the defence of petitioner was struck off and order dated 31.08.2023 Annexure P-6 whereby the application filed by the petitioner for review of order Annexure P-2 was dismissed by the Court of Civil Judge (Junior Division), Gurugram in Civil Suit No.673 of 2021 titled ***Bijender Singh Vs. Smt. Saroj Kumari and another.***

2. The counsel for the petitioner submits that on receiving the notice of suit, petitioner appeared before the learned trial Court through its counsel for the first time on 11.02.2021 and that time the Courts were working in a restricted mode due to spread of COVID-19 infection and when the situation became normalized, the suit was adjourned from time to time for effecting service of remaining defendants and as such the petitioner

failed to file written statement within the prescribed statutory period and finally its defence was struck off by the learned trial Court vide order dated 23.08.2022 (Annexure P-2). Subsequently, the petitioners filed an application for review/ recall of the said order dated 23.08.2022 but the same was dismissed by the learned trial Court vide order dated 31.08.2023 (Annexure P-6). 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 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-6 are set aside and petitioner is granted one opportunity to file written statement subject to cost of Rs.10,000/- which is to be deposited with the District Legal Services Authority, Gurugram by 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 No.1. However, if he feel dis-satisfied with this order, he may move an application to recall the same.

14.12.2023

Yogesh

**(KARAMJIT SINGH)
JUDGE**

**Whether speaking/reasoned:-
Whether reportable:-**

**Yes/No
Yes/No**