



CR-4077-2024 (O&amp;M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA  
AT CHANDIGARH

139

CR-4077-2024 (O&M)  
Date of decision:23.07.2024

Naveen Dhawan

... Petitioner

Vs.

Meenakshi Saini

... Respondent

**CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.**Present: Mr. K.K. Goel, Advocate and  
Mr. Ankush Bharti, Advocate for the petitioner.

...

**SUKHVINDER KAUR, J.**

1. The instant revision petition has been filed by petitioner against the order dated 21.05.2024 (Annexure P-8) passed by the Rent Controller, Ludhiana, vide which defence of the petitioner was struck off due to non filing of written statement.

2. Relevant facts leading to filing of the present revision petition are that the petitioner filed a petition under Section 13 of the East Punjab Urban Rent Restriction Act for ejectment of the respondent from the suit property/demised shop.

3. Notice of the petition was served upon the respondent and he appeared in person on 10.05.2023. Thereafter the case was fixed for filing of the written statement by the revision petitioner for 10.05.2023. The matter was repeatedly adjourned for this purpose, but respondent did not file written statement despite lapse of about 5 months. Then one application



**CR-4077-2024 (O&M) -2-**

under Order 11 Rule 14 CPC was filed by respondent on 25.10.2023 which was disposed of on 23.11.2023. Again written statement was not filed on 11.12.2023 and 22.12.2023 and respondent filed another application for admitting or denying the document and failed to file the written statement. On 21.05.2024, vide the impugned order, defence of the petitioner was struck off. Hence, aggrieved against the said order, the petitioner has knocked the doors of this Court by way of filing of the present revision petition.

4. Learned counsel for the petitioner has contended that the learned Rent Controller has decided the application for striking of the defence filed by the respondent as well as application for admission and denial hurriedly and it was incumbent upon the trial Court first to decide the application filed by the petitioner for admission and denial. He has urged that firstly application under Order 11 Rule 14 CPC read with Section 151 CPC was filed by the petitioner for directing the respondent to produce the record and it was adjourned for number of times and ultimately was dismissed by the learned Rent Controller vide order dated 23.11.2023. Thereafter the petitioner filed an application for admission and denial of the documents as it was necessary for filing the written statement to the rent petition. It also remained pending and ultimately, it was disposed of vide the impugned order dated 21.05.2024 (Annexure P-8) along with application for striking of the defence. He has argued that as such due to pendency of the aforesaid applications earlier written statement could not be filed by the petitioner and there was no intentional delay on the part of the petitioner in



CR-4077-2024 (O&M) -3-

not filing the written statement. He has submitted that in case the petitioner is not granted an opportunity to file his written statement, then the same would cause irreparable loss to him and therefore, he seeks indulgence of this Court for grant of one effective opportunity for filing of the written statement.

5. I have heard learned counsel for the petitioner at length and have perused the pleadings on record.

6. Order 8 Rule 1 CPC casts an obligation on the defendant to file the written statement within 30 days from the date of service of summons on him and within the extended time falling within 90 days. Hon'ble the Supreme Court of India in **Kailash Vs. Nanku & others, AIR 2005 SC 2441** has held as under:

*“Three things are clear. Firstly, a careful reading of the language in which Order VIII, Rule 1 has been drafted, shows that it casts an obligation on the defendant to file the written statement within 30 days from the date of service of summons on him and within the extended time falling within 90 days. The provision does not deal with the power of the court and also does not specifically take away the power of the court to take the written statement on record though filed beyond the time as provided for. Secondly, the nature of the provision contained in Order VIII, Rule 1 is procedural. It is not a part of the substantive law. Thirdly, the object behind substituting Order VIII, Rule 1 in the present shape is to curb the mischief of unscrupulous defendants adopting dilatory tactics, delaying the disposal of cases much to the chagrin of the plaintiffs and petitioners approaching the court for quick relief and also to the serious inconvenience of the court faced with frequent*



*prayers for adjournments. The object is to expedite the hearing and not to scuttle the same. The process of justice may be speeded up and hurried but the fairness which is a basic element of justice cannot be permitted to be buried.*

*All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the Statute, the provisions of the CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice.”*

7. It has been held in a catena of judgments that the provision under Order 8 Rule 1 CPC is directory and not mandatory and power of Courts to extend time for filing written statement beyond time schedule provided under Order 8 Rule 1 CPC is not completely taken away and in the justified circumstances, the time limit provided under statute for filing of the written statement in civil proceedings can be extended by the Court. Ordinarily, the time schedule prescribed by order VIII Rule 1 CPC has to be honoured and extension of time sought by defendant should not be granted by Court merely for asking so, just as a matter of routine and can be only by way of exception or for reasons assigned by defendant and also recorded in writing by Court to its satisfaction.

8. In the facts and circumstances of the present case, it will be appropriate, if in the interest of justice, one effective opportunity is granted



**CR-4077-2024 (O&M)**      **-5-**

to the petitioner to file his written statement and to defend his case. The other party can be well compensated with costs. Therefore, the trial Court is directed to grant one effective opportunity to the petitioner to file his written statement subject to payment of costs of Rs.8,000/- to be paid to the respondent. Accordingly, the impugned order dated 21.05.2024 is set aside and the revision petition is allowed in the aforesaid terms.

9.                      Pending application(s), if any, shall also stand disposed of.

**23.07.2024**  
*harjeet*

**( SUKHVINDER KAUR )**  
**JUDGE**

- |                               |        |
|-------------------------------|--------|
| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable?        | Yes/No |