



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

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CR-6363-2024 (O&M)  
Date of Decision: 04.11.2024

Jasvir Kaur

....Petitioner

Versus

Kuldeep Singh and another

....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

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**Present:** Mr. Balkaran Singh Aulakh, Advocate  
for the petitioner.

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VIKAS SURI, J. (Oral)

1. This revision petition under Article 227 of the Constitution of India has been filed by the defendant-petitioner assailing order dated 25.04.2024 (Annexure P-5) passed by learned Additional Civil Judge (Senior Division), Sri Muktsar Sahib, whereby the defence of defendant Nos.1 and 2 has been ordered to be struck off.
2. Briefly stated, the plaintiff-respondent filed a suit for specific performance of agreement of mortgage dated 24.06.2019 with regard to the suit land measuring 8 Kanals 1 Marlas and for declaration that the mutation entered and sanctioned on the basis of sale deed dated 26.02.2020 are null and void and are liable to be set aside. Consequential relief of permanent



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injunction was also prayed for.

3. Upon notice, the defendants put in appearance through counsel on 11.01.2024 and the matter was adjourned to 14.03.2024 for filing written statement and reply to stay application. On the adjourned date, another opportunity for the same was granted subject to costs and the proceedings were adjourned to 10.04.2024. The proceedings were further deferred to 25.04.2024 on account of the learned Presiding Officer being on leave on the date fixed. On the next hearing, impugned order was passed whereby the defence of defendants was struck off. Learned counsel for the petitioner has argued that petitioner was granted only two opportunities though spread over 60 days at the first instance and 45 days at the second instance. The petitioner seeks only one opportunity to file written statement and the plaintiff can be compensated for the inconvenience caused.

4. I have heard learned counsel for the petitioner and with his able assistance perused the case file.

5. Perusal of the impugned order would show that the trial Court has taken notice of the fact that the provisions of Order 8 Rule 1 CPC are directory and not mandatory. It has applied the ratio of the Apex court in ***R.N.Jadi Vs. Subhashchandra, 2007(3) RCR (Civil) 588***, wherein it has been held that grant of extension of time beyond 30 days is not automatic. Learned counsel for the petitioner has submitted that the proceedings before the trial Court are now pending for 19.11.2024 and on being permitted one opportunity to the petitioner to file written statement, the same would be filed on the date already fixed.



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6. In *Desh Raj vs. Balkishan (Dead) through Proposed Legal Representative Ms. Rohini*, (2020) 2 SCC 708, a three Judge Bench of the Hon'ble Supreme Court had also examined the timeline for filing of written statement and laid down that in a non-commercial dispute matter, the unamended provision of Order 8 Rule 1 CPC continues to be directory and does not do away with the inherent discretion of the Courts to condone delay.

7. In the light of above discussion and the law laid down by the Apex Court, I am of the considered opinion that ends of justice would be adequately met if the delay in filing written statement is condoned subject to payment of costs. No prejudice would be caused to the other side in case the suit is decided on merits, after affording due opportunity to contest the same. It is settled law that the procedural law is always subservient to and is in aid of justice.

8. Accordingly, the present revision petition is allowed. The impugned order dated 25.04.2024 (Annexure P-5) is set aside, subject to payment of Rs.15,000/- as costs, to be paid to the plaintiff-respondent and one opportunity is granted to the petitioner (defendant No.1) to file her written statement on or before the date fixed before the trial Court. It is made clear that failing to file the written statement or to pay costs in terms of this order, the petitioner (defendant No.1) would not be entitled to any further opportunity for the said purpose and the trial Court would proceed with the matter without this order having any bearing on the trial.

9. As the present revision petition is being disposed in the absence of respondent-plaintiff, liberty is granted to him to seek recalling of the



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present order, if valid grounds for the same are made out.

- 10. The revision petition is allowed in the aforesaid terms.
- 11. Pending applications, if any, also stand disposed of.

**November 04, 2024**  
*Varinder*

**(VIKAS SURI)**  
**JUDGE**

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