



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

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CR No.109 of 2025 (O&M)
Date of Decision: 12.08.2025

Pandit Lakshman Parshad

...Petitioner

V/s

Shahid Parvez

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Imran Farooqi, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The instant revision petition, preferred under Article 227 of the Constitution of India, assails order dated 01.10.2024 (Annexure P-2) passed by the Court of Civil Judge (Jr. Divn.), Malerkotla, vide which the defence of the petitioner (defendant) was struck off on account of non-filing of written statement.

2. The facts, as emanating from the revision petition, are that a civil suit for possession by way of specific performance of agreement to sell dated 08.04.2023 of a residential house measuring 0-2.9/10 marla (fully described in the plaint) (hereinafter referred to as the "suit property") was filed by the respondent-plaintiff in October, 2023. The suit was also accompanied by an application Under Order 39 Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short the "CPC"). The petitioner (defendant) put in appearance before the trial Court on 20.01.2024. Thereafter, on few occasions, the matter was adjourned on the joint request of learned counsel for the parties on the ground that there could be some possibility of an amicable settlement between the parties. On 16.07.2024, the matter was adjourned to 16.08.2024 for filing written statement and reply to the application under Order 39 Rules 1 and 2



CPC. Costs of Rs.500/- were also imposed upon the petitioner-defendant for non-filing of written statement and reply. On 16.08.2024, the matter was again adjourned to 01.10.2024 for filing of written statement and reply. Eventually, by way of the impugned order dated 01.10.2024, the defence of the petitioner-defendant was struck off on account of non-filing of written statement and reply and costs.

3. I have heard learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that learned counsel for the petitioner put in appearance before the trial Court on 20.01.2024 and filed the memorandum of appearance, after which the case was adjourned on the joint request, as there was some possibility of an amicable settlement between the parties. He submits that thereafter, the matter remained pending till 16.07.2024 for exploring the possibility of an amicable settlement between the parties. Learned counsel submits that though the statutory period for filing written statement had elapsed, non-filing of written statement was purely unintentional and *bona fide*. He further submits that the case is still at its initial stage and, therefore, one opportunity be granted to the petitioner to file the written statement, failing which the rights of the petitioner shall be gravely prejudiced. He further submits that costs stand deposited, however after passing of the impugned order.

5. I have considered the submissions made by learned counsel for the petitioner.

6. There would be no necessity of issuing notice to the respondents, for, in view of the nature of the order that is proposed to be passed, no prejudice would be caused to them.

7. Concededly, the petitioner put in appearance before the trial Court on 20.01.2024. A perusal of the interlocutory orders which have been



reproduced shows that initially the matter was adjourned on the joint request for exploring the possibility of an amicable settlement between the parties.

8. No doubt, once the petitioner had put in appearance, it was the bounden duty of the petitioner to file written statement within the time period as envisaged under Order VIII Rule 1 CPC. However, it has also to be borne in mind that the case was at its initial stage.

9. As per the provisions of Order VIII Rule 1 of the Code of Civil Procedure, 1908 (for short the “CPC”), the written statement is to be filed within a period of 30 days from the date of service of summons which is extendable up to 90 days. Order 8 Rule 10 CPC lays down the procedure to be followed in case of non-filing of written statement. In ***Kailash V/s Nanhku and others, 2005(2) RCR (Civil) 379***, the Supreme Court of India opined that the amendment in Rule 8(1) CPC would not impose an embargo on the power of the Court to extend the time further, as no penal consequences as such have been provided, the provisions being in the domain of the procedural law would not, therefore, be mandatory. It was held that ordinarily the time schedule should be followed as a rule and departure therefrom would be by way of exception and that such extension of time should not be granted as a matter of routine, especially beyond a period of 90 days. It was held that in case any extension is to be granted, the same should be for the good reasons to be recorded in writing may be in brief. Subsequently, the Supreme Court of India was again seized of this issue in the case of ***R.N. Jadi V/s Subhashchandra, 2007 (3) RCR (Civil) 588***, wherein it was held that the grant of extension of time beyond 30 days is not automatic. The Supreme Court of India held that the power of the Court has to be exercised with caution and for adequate reasons to be recorded and extension of time beyond



90 days must be granted only based on a clear satisfaction of the justification for granting such extension.

10. Reverting to the facts of the present case, as observed, the case is at its initial stage. No doubt, the petitioner did not file the written statement within the time period as envisaged under Order VIII Rule 1 CPC. However, having considered the matter, this Court is of the opinion that the delay is not such which should disentitle the petitioner from presenting his stand before the trial Court. The reasoning given is also reasonable, though not fully justified. It has to be borne in mind that cases should be decided on merits and not on mere technicalities. In the considered opinion of this Court, rights of the petitioner would be gravely prejudiced if he is not permitted to file the written statement. Accordingly, this Court deems it appropriate to grant one more opportunity to the petitioner to file the written statement and reply to the application under Order 39 Rules 1 and 2 CPC.

11. That being so, the revision petition is allowed and the impugned order dated 01.10.2024 (Annexure P-2) passed by the Court of Civil Judge (Jr. Divn.), Malerkotla, vide which the defence of the petitioner (defendant) was struck off on account of non-filing of written statement and reply, is set aside. One opportunity is granted to the petitioner to file the written statement and reply to the application under Order 39 Rules 1 and 2 CPC, which shall, however, be subject to payment of costs of Rs.15,000/-, which shall be paid to the respondent-plaintiff.

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

(VIKRAM AGGARWAL)
JUDGE

August 12, 2025

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