



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

126

CR-1351-2025 (O&M)
Date of Decision: 06.03.2025

Munish Kumar

...Petitioner

V/s

Satinder Kaur

...Respondent

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Navneet Jindal, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present petition is directed against the order dated 13.02.2025 (Annexure P-3), passed by the Court of learned Addl. Civil Judge (Sr. Divn.), Kharar, vide which the application filed by the petitioner seeking time to file reply was dismissed.

2. An eviction petition (Annexure P-1) under Section 20 of the Punjab Rent Act, 1995 (for short the "Rent Act") was filed by the respondent (Satinder Kaur) against the present petitioner seeking his eviction from a shop (fully described in the eviction petition) situated at Modern Complex, Near Post Office, Morinda Road, Kurali. An application was filed by the petitioner under Order 7 Rule 14 CPC seeking a direction to the respondent-landlord to produce the sale deed dated 12.10.2016. The application was, however, dismissed vide order dated 28.01.2025. The said order was challenged by the petitioner by filing CR-905-2025 and the same was also dismissed by this Court vide order dated 14.02.2025. During the pendency of CR-905-2025, yet another application was filed by the petitioner seeking time to file reply on the ground of pendency of the above said revision petition. However, the said



application was also dismissed vide the impugned order dated 13.02.2025 leading to filing of the present revision petition.

3. I have heard learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that non-filing of the written statement was purely unintentional and *bona fide* and that the trial Court took a hyper technical view and closed the opportunity for filing of reply by order. He submits that one opportunity be granted to the petitioner to file the written statement.

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

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

7. Admittedly, the petition was filed by the respondent on 02.07.2024 seeking eviction of the petitioner from the demised shop and the petitioner appeared through his counsel on 04.09.2024. On 28.01.2025, the petitioner filed an application seeking production of the sale deed dated 12.10.2016 and the said application was dismissed on the same day. The said order was challenged by the petitioner by filing a revision petition and the same was also dismissed vide order dated 14.02.2025. In the meantime, the petitioner also filed an application for grant of adjournment to file reply which was also dismissed vide order dated 13.02.2025.

8. 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 lays down the procedure in case of failing to present the 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 could 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 opined 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. In eviction proceedings instituted under the Rent Act also, the provisions of CPC are applicable.

9. Reverting to the facts of the present case, no doubt after appearance before the trial Court on 04.09.2024, the written statement was not filed even on 13.02.2025. However, the petitioner has stated in petition that the delay had been occurred in filing the reply on account of pendency of his application for production of sale deed dated 12.10.2016 and the non-filing of the written statement was unintentional and *bona fide*. In the considered opinion of this Court, 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



CR-1351-2025

-4-

that cases should be decided on merits and not on 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.

10. In view of the above, the revision petition is allowed and the order dated 13.02.2025 (Annexure P-3) passed by the Court of learned Addl. Civil Judge (Sr. Divn.), Kharar, Mohali, vide which opportunity for filing reply was closed by order, is set aside. The petitioner is granted one opportunity to file his written statement on or before the next date of hearing fixed before the trial Court. This shall, however, be subject to payment of costs of Rs.10,000/- which shall be paid to the respondent(landlord)

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

(VIKRAM AGGARWAL)
JUDGE

March 06, 2025

vcgarg

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No