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

CR-2397-2024 (O&M)

Date of Decision : 10.11.2025

KAMAL KUMAR

.... Petitioner

VERSUS

VIJAY LAXMI

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Mukesh Kumar Bhatnagar, Advocate for the petitioner.

Mr. H.S. Rakhra, Advocate for

Ms. Ravisha Mahajan, Advocate for the respondent.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed under Article 227 of the Constitution of India challenging the order dated 21.08.2023 passed by the learned Rent Controller concerned whereby the defence of the petitioner herein was struck off for not filing the written statement despite the period of 5 months and 17 days having elapsed.

2. Learned counsel for the petitioner would contend that given one opportunity the petitioner would file his written statement and that the petitioner is also willing to compensate the respondent by way of costs.

3. *Per contra*, learned counsel for the respondent would contend that the petitioner did not file his written statement in time and that despite the order striking off his defence having been passed on 21.08.2023, the present revision petition was filed on 09.04.2024.

4. Heard.

5. The Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D) through proposed LR Ms. Rohini [(2020) (1) RCR (Civil) 807]** has held as under :

“ANALYSIS & CONCLUSION

11. At the outset, it must be noted that the Commercial Courts Act, 2015 through Section 16 has amended the CPC in its application to commercial disputes to provide as follows:

“16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.-(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a specified value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State

Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.”

12. Hence, it is clear that post coming into force of the aforesaid Act, there are two regimes of civil procedure. Whereas commercial disputes [as defined under Section 2(c) of the Commercial Courts Act, 2015] are governed by the CPC as amended by Section 16 of the said Act; all other noncommercial disputes fall within the ambit of the unamended (or original) provisions of CPC.

13. The judgment of Oku Tech (supra) relied upon the learned Single Judge is no doubt good law, as recently upheld by this Court in SCG Contracts India Pvt. Ltd. v. KS Chamankar Infrastructure Pvt. Ltd., AIR 2019 SC 2691, but its ratio concerning the mandatory nature of the timeline prescribed for filing of written statement and the lack of discretion with Courts to condone any delay is applicable only to commercial disputes, as the judgment was undoubtedly rendered in the context of a commercial dispute qua the amended Order VIII Rule 1 CPC.

14. As regard the time-line for filing of written statement in a non commercial dispute, the observations of this

Court in a catena of decisions, most recently in Atcom Technologies Ltd. v. Y.A. Chunawala and Co., (2018) 6 SCC 639 holds the field. Unamended Order VIII Rule I, CPC continues to be directory and does not do away with the inherent discretion of Courts to condone certain delays.”

It is trite that the provisions of Order VIII Rule 1 CPC have been held to be directory in nature and not mandatory in the case of a non-commercial suit.

6. No doubt that the petitioner has been remiss in not only not filing the written statement on time but also in not challenging the order dated 21.08.2023 within a reasonable period. However, keeping in view the nature of the litigation and the fact that in case the petitioner is not permitted to file his written statement, grave injustice would be occasioned to him and in view of the law laid down by the Hon’ble Supreme Court in the case of **Desh Raj** (supra) and in order to do complete justice between the parties, one opportunity is granted to the petitioner to file his written statement within a period of 15 days from today subject to payment of ₹30,000 as costs to be paid to the respondent. The payment of costs shall be a condition precedent for filing of the written statement. The Rent controller concerned is requested not to grant any unnecessary adjournments to either of the parties and to conclude the matter expeditiously.

7. It is made clear that if the costs are not paid to the respondent, or the written statement is not filed within 15 days from today, the present revision petition shall be deemed to having been dismissed.
8. Petition stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

10.11.2025

Aman Jain

(ALKA SARIN)

JUDGE

*NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No*