



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

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CR No.2455 of 2025 (O&M)
Date of Decision: 24.04.2025

Puro Devi (since deceased) through LR

...Petitioner

V/s

Ginni Gautam and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ashish Kaushik, Advocate for
Mr. APS Sandhu, Advocate, for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

The present revision petition is directed against the order dated 14.02.2025 (Annexure P-2) passed by the Court of learned Rent Controller, Amritsar, vide which the defence of the petitioner was struck off on account of non-filing of written statement.

2. Respondent No.1 (Ginni Gautam) filed a petition under Section 13 of the East Punjab Urban Rent Restrict Act, 1949 for eviction of the petitioner (Puro Devi). Puro Devi was initially proceeded against *ex parte* in January, 2024. On an application filed by the son of the petitioner for setting aside of the *ex parte* order, the said order was set aside on 19.09.2024 and the case was fixed for 22.10.2024. Thereafter, on few occasions, the case was adjourned for filing of reply and vide order dated 08.01.2025, costs of Rs.500/- were also imposed upon the petitioner for non-filing of the reply and the case was adjourned to 14.02.2025. Ultimately, vide order dated 14.02.2025, the defence of the petitioner was struck off leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioner.



4. Learned counsel for the petitioner submits that the petitioner be granted only one opportunity to file written statement. Learned counsel submits that the case is still at the initial stage and in case the petitioner is not granted an opportunity to file the written statement, his rights and interests shall be gravely prejudiced. Learned counsel for the petitioner submits that non-filing of the written statement, was purely unintentional and *bona fide* and that the Court took a hyper technical view and struck off the defence of the petitioner.

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. The petition under Section 13 of the East Punjab Urban Rent Restrict Act, 1949 for eviction of the petitioner was filed by respondent No.1 on 10.01.2019. The original petitioner (Puro Devi) was proceeded against *ex parte* in January, 2024. During the pendency of the rent petition, Puro Devi had unfortunately expired. The order vide which Puro Devi had been proceeded against *ex parte* was set aside on an application filed by the son of the petitioner and the case was fixed for 22.10.2024 for filing of written statement. Thereafter, on few occasions the case was adjourned for filing of reply and eventually vide order dated 14.02.2025, the defence of the petitioner was struck off.

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 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. Jodi 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.

8. Reverting to the facts of the present case, no doubt, the rent petition was filed on 10.01.2019 and after appearance of the petitioner, the written statement was not filed till 14.02.2025. However, the petitioner has stated in petition that the delay in non-filing of the written statement, was purely 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 Rent Controller. 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.

9. That being so, the revision petition is allowed and the impugned order 14.02.2025 (Annexure P-2) passed by the Court of learned Rent Controller, Amritsar, vide which the defence of the petitioner was struck off, is set aside. One more opportunity is granted to the petitioner to file the written statement. This shall however, be subject to payment of costs of Rs.10,000/-, which shall be paid to respondent No.1.

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

(VIKRAM AGGARWAL)
JUDGE

April 24, 2025

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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No