

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****117****CR-3219-2023 (O&M)****Date of Decision : 07.05.2025**

Daljit Kaur and Another

....Petitioners

VERSUS

Kuldeep Singh

....Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagdish Manchanda, Advocate for the petitioners.

Mr. Vijay Lath, Advocate for the respondent.

ALKA SARIN, J. (Oral)

1. Present revision petition has been filed by the defendant-petitioners impugning the order dated 20.04.2023 whereby the defence of the defendant-petitioners has been struck off for not filing the written statement despite having put in appearance on 07.10.2022.
2. Learned counsel for the defendant-petitioners would contend that given one opportunity the defendant-petitioners would file their written statement and would further cooperate and would not delay the proceedings in any manner by asking for any unnecessary adjournment. Learned counsel for the defendant-petitioners would further contend that the defendant-petitioners are also willing to compensate the plaintiff-respondent by way of costs.
3. *Per contra* learned counsel for the plaintiff-respondent would contend that despite availing numerous opportunities the written statement

was not filed by the defendant-petitioners and therefore, no fault can be found with the impugned order dated 20.04.2023.

4. Heard.

5. Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D)** through proposed LR Ms. Rohini [(2020) 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 timeline 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.”

6. The period of 90 days has been held to be directory in nature and not mandatory. The suit in the present case is for specific performance of agreement to sell dated 14.07.2018 and grave injustice would be occasioned to the defendant-petitioners if they are not permitted to file the written statement. In order to do complete justice between the parties, this Court deems it appropriate to grant one opportunity to the defendant-petitioners to file their written statement within a period of 15 days from today subject to payment of ₹30,000/- as costs to be paid to the plaintiff-respondent. The payment of costs shall be a condition precedent for filing the written statement. It is made clear that in case the written statement is not filed within the time granted and the costs are not paid, the present revision petition shall be deemed to have been dismissed.

7. The revision petition is disposed off in the above terms. Pending applications, if any, also stand disposed off.

07.05.2025
jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO