



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

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CR No.3040 of 2025 (O&amp;M)

Date of Decision :19.05.2025

**Kulwant Singh****.....Petitioner****Versus****Punjab National Bank****..... Respondent****CORAM: HON'BLE MR.JUSTICE VIKRAM AGGARWAL**

Present : Mr. Sumeet Singh Brar, Advocate for the petitioner.

**VIKRAM AGGARWAL, J. (Oral):**

This revision petition assails the order dated 27.11.2024 (Annexure P-1), passed by the Court of Civil Judge (Jr. Divn.), Ludhiana, 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 suit for recovery of Rs. 14,94,496.36/- along with *pendente lite* and future interest @ 13.50% and 14% *per annum* with yearly rests was filed by the respondent-Punjab National Bank (Annexure P-2), against the petitioner-defendant (Kulwant Singh). Having put in appearance before the trial Court, the petitioner-defendant did not file his written statement for a period of about 6 months upon which, vide the impugned order, his defence was struck off. The petitioner-defendant then filed an application on 19.12.2024 when evidence of the plaintiff had started seeking permission to place on record the written statement. This application remained pending till 19.03.2025 and when it was finally dismissed (Annexure P-5). After the dismissal of the said application, the petitioner has knocked the doors of this Court.



3. I have heard learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that non-filing of the written statement on 27.11.2024 was unintentional as the counsel representing the petitioner was busy in some other Court. He submits that there was no intention to delay the proceedings and that on 19.12.2024, which was the date fixed immediately after the date on which the defence had been struck off, the petitioner had presented the written statement along with the application showing his *bonafides*. He submits that no doubt, a wrong remedy was availed by the petitioner and that instead of filing the said application he should have approached this Court by way of a revision petition.

5. Learned counsel submits that petitioner being a rustic villager was not aware of the intricacies of the law and procedure. He further submits that if the petitioner is not permitted to file his written statement, his rights shall be gravely prejudiced.

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

7. 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 it.

8. The suit was presented on 02.04.2024 and notice was issued for 29.05.2024. On 29.05.2024, the defendant appeared and sought time to file the written statement and the matter was adjourned to 31.07.2024. Thereafter, the matter was adjourned to 23.9.2024, 24.10.2024 and 27.11.2024, but the written statement was not filed. On 27.11.2024, the defence was struck off and the matter was fixed for 19.12.2024 for evidence of the plaintiff. On 19.12.2024, the petitioner-defendant filed an application along with the written statement



seeking permission to place on record the same. This application remained pending for consideration before the trial Court and the same was dismissed being not maintainable on 19.03.2025.

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 VIII 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. 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, no doubt, the suit was filed on 02.04.2024 and after appearance of the petitioner-defendant, the written statement was not filed till 27.11.2024. 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 dis-entitle 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.

11. That being so, the revision petition is allowed and the impugned order dated 27.11.2024 (Annexure P-1) passed by the Court of Civil Judge (Jr. Divn.), Ludhiana, vide which the defence of the petitioner-defendant 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.20,000/-, which shall be paid to the respondent-plaintiff.

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

**(VIKRAM AGGARWAL)**  
**JUDGE**

**19.05.2025**

*Manoj Bhutani*

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|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |