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

CR-4152-2024 (O&M)

Date of Decision : 19.09.2025

SWARNJEET SINGH

.... Petitioner

VERSUS

AKASH KUMAR

.... Respondent

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.C. Shahpuri, Advocate for the petitioner.

Mr. Jatinder Nagpal, Advocate for the respondent.
(joined through hybrid mode)

ALKA SARIN, J. (ORAL)

CM-18099-CII-2025

1. This is an application for preponing the date of hearing of the main petition from 10.12.2025 to some early date.
2. Learned counsel for the respondent states that he has no objection if the present application is allowed.
3. In view of the above, the present application is allowed and the date of hearing of the main petition is preponed. With the consent of the learned counsel for the parties, the main petition is taken on Board today itself.

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4. The present revision petition has been filed challenging the order dated 03.07.2024 passed by the learned Additional Civil Judge (Senior Division), Hathi where by the defence of the defendant-petitioner was struck

off for non-filing of the written statement despite a period of 90 days having elapsed.

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

6. *Per contra*, learned counsel for the plaintiff-respondent would contend that despite the period of 90 days having elapsed from the date of service of the summons, the defendant-petitioner failed to file his written statement and therefore his defence was rightly struck off and no fault can be found with the impugned order.

7. Heard.

8. 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 non-commercial suit.

9. In the present case the suit is for possession by way of specific performance as well as permanent injunction. Keeping in view the nature of the suit and the fact that in case the defendant-petitioner is not permitted to

file his written statement, great injustice would be occasioned to him. In order to do complete justice between the parties, one opportunity is granted to the defendant-petitioner to file his written statement on or before the date fixed in the Trial Court i.e. 14.10.2025, subject to payment of ₹30,000 (rupees thirty thousand) as costs to be paid to the plaintiff-respondent. The payment of costs shall be a condition precedent for filing of the written statement.

10. It is made clear that in case the written statement is not filed on or before the next date of hearing i.e. 14.10.2025, the present revision petition shall be deemed to having been dismissed.

11. Petition stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

19.09.2025
Aman Jain

(ALKA SARIN)
JUDGE

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