



CR-3901-2025 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3901-2025 (O&M)

Date of decision : 14.07.2025

Kishore Kumar and others

...Petitioners

Versus

Ashok Kumar

...Respondent

CORAM: HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN

Present: Mr. Bhavesh Aggarwal, Advocate,
for the petitioners.

HARPREET KAUR JEEWAN, J. (Oral)

1. The petitioners-defendants have filed the present civil revision under Article 227 of the Constitution of India for setting aside the impugned order dated 18.03.2025 (Annexure P-4), whereby, Civil Judge (Junior Division), Gurdaspur has struck off defence of the petitioners in Civil Suit bearing No.CS-1191-2024 dated 09.08.2024, titled as **"Ashok Kumar Vs. Kishore Kumar and others"**.

2. Learned counsel for the petitioners submitted that the respondent-plaintiff has filed civil suit on 12.08.2024, seeking separate possession by way of partition of the suit property and also sought consequential relief of permanent injunction. The petitioners put in appearance on 23.08.2024 and the matter was adjourned for 23.09.2024, for filing of the written statement by the petitioners-defendants. It is further contended that though, opportunities were granted, but the written statement could not be filed. Even the Court was not held on 13.01.2025. Thereafter, when the matter was



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adjourned for 18.03.2025, defence of the petitioners-defendants was struck off on account of non-filing of the written statement.

2.1. It is contended that the written statement was already prepared and drafted on 18.03.2025, but the same could not be filed as the counsel for the petitioners informed the petitioners that the matter already stood adjourned for 24.03.2025.

3. Learned counsel submits that valuable rights of the petitioners are involved and as such, one opportunity may be granted to file the written statement, which shall be filed within a period of 02 weeks.

4. I have considered the submissions made on behalf of the petitioners.

5. In view of the nature of the matter, issuance of notice to the respondent is dispensed with as no prejudice is going to be caused to him.

6. Admittedly, the petitioners had received the notice of the suit and put in appearance on 23.08.2024, which is reflected in the order (Annexure P-2). Thereafter, they have availed four effective opportunities to file the written statement on 23.09.2024, 23.10.2024, 12.12.2024 and 18.03.2025, but did not file the written statement.

7. As per the provisions of Order VII Rule 1 of the Code of Civil Procedure, 1908 (for short, 'the CPC'), written statement is to be filed within a period of 30 days from the date of issuance of summons, which is extendable upto 90 days. Order VIII Rule 10 of the CPC provides the procedure where the defendant fails to file the written statement.



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8. It is well settled that rules of procedure are handmade of justice and not to deny justice. In *Kailash Vs. Nanhku and others, 2005(2) RCR (Civil) 379*, the Hon'ble Apex Court of India opined that though, Order VIII Rule 1 of the CPC is part of Procedural Law and hence directory, however, keeping in view the need for expeditious trial of cases, the time schedule contained in the provisions is to be followed as a rule and the departure therefrom would be by way of exception. The Hon'ble Apex Court further observed that a prayer for extension of time made by the defendant shall not be accepted as a matter of routine and the same is to be allowed in exceptional circumstances, by recording reasons.

9. The litigation *inter se* the parties is pertaining to an immovable property. The respondent-plaintiff has sought partition by metes and bounds and valuable property rights of the petitioners are involved, as such ousting them on account of non-filing of written statement would adversely affect their rights. Therefore, it would be in the interest of justice that in such cases, adjudication should be on merits. As such, I am of the considered opinion that petitioners should be afforded an opportunity to file written statement and defend the *lis*. However, this should be subject to payment of costs.

10. Consequently, present petition is allowed; impugned order is set aside subject to payment of costs of Rs.10,000/- to the respondent. The petitioners-defendants shall submit written statement within 15 days from today.



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11. Since this order has been passed without issuance of notice to the respondent, as such, liberty is granted to the respondent to seek recalling of this order, if so advised.

12. Pending miscellaneous applications, if any, shall stand disposed of.

14.07.2025
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[HARPREET KAUR JEEWAN]
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No