



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

CR-5674-2025

Date of Decision:10.12.2025

KRISHNA DEVI

...Petitioner

Vs.

PARVEEN AND OTHERS

...Respondents

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Rajesh Goyal, Advocate for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been filed assailing the order dated 14.03.2023 whereby the right of filing reply to the counter-claim and replication to the written statement has been curtailed by the Court below.

2. Briefly stated, the petitioner filed a suit for permanent injunction, which was contested by the respondents/defendants, who filed their written statement along with a counter-claim seeking a declaration challenging the agreement dated 27.10.2009 and a consequential relief of permanent injunction against the petitioner. Since the petitioner/plaintiff failed to file the reply to the counter-claim as well as the replication to the written statement, the learned Civil Judge struck off the petitioner's defence vide order dated 14.03.2023. Aggrieved by the said order, the present revision petition has been filed, assailing the impugned order on the ground that the petitioner was granted only three opportunities to file the reply to the counter-claim, whereas several opportunities had been afforded to the respondents/defendants.



3. I have heard counsel for the petitioner and have gone through the file carefully.

4. A perusal of the impugned order clearly shows that the Court was conscious of the legal position that a counter-claim is to be treated as a plaint and that all provisions of the CPC applicable to a suit equally apply to a counter-claim. Under Order VIII Rule 1 CPC, the petitioner was required to file a written statement/reply to the counter-claim within 30 days from the date of its filing. This period may be extended up to 90 days for reasons to be recorded. It is also well-settled in law that this period of 90 days is not sacrosanct, and the Court may permit filing of the reply beyond 90 days if sufficient cause is shown and the delay is attributable to circumstances beyond the party's control. Thus, the reply to the counter-claim can be allowed even after the expiry of 90 days

5. In the present case, the petitioner has not shown any cogent or convincing reason for his failure to file the written reply to the counter-claim and the replication to the written statement within the prescribed period of 90 days. Therefore, no illegality or infirmity can be found in the order passed by the learned Civil Judge, except for the fact that the order was passed by the Judicial Magistrate First Class, Samalkha, whereas it should have been passed by the Civil Judge having jurisdiction over the suit. Considering that the petitioner has been prejudiced by the order passed by the Judicial Magistrate First Class, Samalkha, by which his defence has been struck off, and further keeping in view that he is now ready with the written reply to the counter-claim and the replication to the written statement, the matter warrants appropriate consideration.



6. In the interest of justice, the petitioner is granted one opportunity to file the reply to the counter-claim and the replication to the written statement, subject to payment of costs amounting to Rs. 50,000/-, of which Rs. 20,000/- shall be deposited in the account maintained by the District Legal Services Authority, Panipat, and the remaining Rs. 30,000/- shall be paid to the respondents/defendants.

7. The present petition is **disposed of** accordingly, with the above directions.

(VIRINDER AGGARWAL)
JUDGE

10.12.2025

kv

Whether speaking/reasoned : *Yes/No*
Whether reportable : *Yes/No*