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

CR-2849-2026

Date of Decision: 01.04.2026

GORI SHANKAR

...Petitioner

Vs.

CHANDRESH KUMAR

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Mr. Shokeen Singh Verma, Advocate for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

The present revision petition has been filed under Article 227 of the Constitution of India read with Section 115 CPC for setting aside the order dated 19.12.2025 (Annexure P-1) passed by learned Additional Civil Judge (Senior Division), Bhiwani, whereby the petitioner's right of defence has been struck off.

2. A perusal of the impugned order reveals that the written statement on behalf of the petitioner could not be filed on 19.12.2025, as the petitioner's counsel/clerk inadvertently noted the next date of hearing as 19.01.2025 instead of 19.12.2025. Owing to this bona fide mistake, neither the petitioner nor his counsel could appear before the learned Trial Court on the said date, and consequently, the learned Additional Civil Judge (Senior Division), Bhiwani, struck off the defence of the petitioner vide order dated 19.12.2025.

3. A perusal of the file shows that petitioner/defendant put in appearance on 23.05.2025 and the impugned order was passed on 19.12.2025. As per the provisions of Order 8, Rule 1 of the CPC, it is incumbent upon the defendant to file written statement within a period of one month from the date of service, and this period of one month can be extended up to 90 days in



appropriate cases. As per the law laid down by the Hon'ble Apex Court, even this period is not sacrosanct or mandatory, and further time may be granted in exceptional cases where the respondent proves his inability to file written statement, for the reasons beyond his control. Learned trial Court is required to record reasons in writing for extending the period of 90 days. The present case, however, does not fall within this category and in the present case written statement was not filed for nearly 200 days, that too from the date of appearance, not from the date of service, the plea taken in the petition that wrong date was noted by the counsel for the petitioner, before the trial Court is of no avail as written statement could have been filed even on a date for which the suit is not adjourned as written statement has to be filed within a period of 30 days, from the date of service and it is not required that written statement has to be filed only on the adjourned date. Consequently, there is no illegality or infirmity in the order passed by the learned Additional Civil Judge (Senior Division), Bhiwani.

3. Considering the fact that in case petitioner is not granted one opportunity to file written statement, his interest in the suit would be materially affected. In the present case, the petitioner/defendant has not filed the written reply even after a considerable period of time from the date of his appearance, but, considering the interest of justice and in order to allow the parties to contest the petition on its merits, the petitioner/defendant is granted one effective opportunity to file the written statement, subject to payment of costs amounting to Rs. 50,000/-, of which Rs. 10,000/- shall be deposited in the account of the District Legal Services Authority, Bhiwani, and the remaining amount of Rs.40,000/- shall be paid to the respondent/plaintiff. In



case, the petitioner fails to pay the costs, then this petition be deemed to have been dismissed. Pending applications, if any, shall also stands disposed of.

(VIRINDER AGGARWAL)
JUDGE

01.04.2026

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