



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3350-2026 (O&M)

Date of decision: 13.05.2026

Sanjiv Gupta and another

. . . . Petitioners

Vs.

Rajiv Gupta and others

. . . . Respondents

CORAM: HON'BLE MR JUSTICE DEEPAK GUPTA

Present: - Mr. Ashok Bhardwaj, Advocate, for the petitioner.

DEEPAK GUPTA, J.CM-9330-CII-2026

This is an application under Section 151 CPC to place on record copies of the various zimini orders passed by the trial Court from 19.07.2025 to 01.04.2026 as Annexures P-16 to P-30.

2. Application is allowed. Annexures P-16 to P-30 are taken on record.

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3. The present petition has been filed under Article 227 of the Constitution of India by the petitioners, who are defendants No.1 and 4 in Civil Suit No.CS-578-2022 titled *Rajiv Gupta Vs. Sanjiv Gupta and others*, pending before the learned Civil Judge (Junior Division), Patiala, assailing the order dated 23.03.2026 (*Annexure P-15*), whereby their prayer seeking permission to file written statement has been declined.

4. A perusal of the paper-book reveals that respondent No.1-plaintiff instituted the aforesaid suit in the year 2022 seeking relief of mandatory injunction in respect of the property in dispute. Despite service, the defendants failed to file written statement within the prescribed period and consequently, vide order dated 27.07.2023, their defence was struck off by the learned trial Court.

5. The said order dated 27.07.2023 was challenged before this Court by way of CR-5087-2023. A Coordinate Bench of this Court vide order dated 04.08.2025 (*Annexure P-12*), while taking a lenient view, granted one effective opportunity to defendant No.1 to file written statement before the trial Court on the next date fixed, while specifically observing that no further opportunity shall be granted.

6. Pursuant to the aforesaid order, the matter was listed before the trial Court on 20.09.2025. It is not disputed that on the said date, the District Bar Association was observing a “no work day” pursuant to a strike call. In such circumstances, only proxy counsel appeared before the Court and the matter was adjourned in the interest of justice to 22.09.2025.

7. It has been submitted by learned counsel for the petitioners that owing to the prevailing strike situation and confusion regarding the adjourned date, counsel for the petitioners remained under the bona fide impression that the matter stood adjourned to 29.11.2025. However, when the status of the case was subsequently checked on the e-Courts portal, it came to notice that on 22.09.2025, none had appeared on behalf of the defendants and they had been proceeded against ex parte vide order dated 22.09.2025 (*Annexure P-13*). The matter was thereafter adjourned to 23.10.2025 for plaintiff’s evidence.

8. Thereafter, the petitioners promptly moved an application seeking setting aside of the ex parte proceedings along with permission to file written statement. The learned trial Court vide impugned order dated 23.03.2026 partly allowed the application by setting aside the ex parte proceedings dated 22.09.2025. However, relying upon the earlier order passed by this Court dated 04.08.2025, the learned trial Court declined the request of the petitioners to file written statement.

9. Learned counsel for the petitioners submits that the failure to file written statement on 22.09.2025 was neither deliberate nor intentional but occurred due to circumstances arising from the strike call and the resultant confusion regarding the next date of hearing. It is further submitted that denial of opportunity to file written statement would result

in grave prejudice to the petitioners, particularly when rights relating to immovable property are involved. Learned counsel further submits that the written statement is already prepared and the petitioners are ready to file the same immediately without seeking any further adjournment.

10. Having heard learned counsel for the petitioners and upon perusal of the record, this Court is of the considered opinion that though procedural discipline is necessary and litigants cannot be permitted to prolong proceedings indefinitely, yet procedural law is intended to advance the cause of justice and not to defeat substantive rights on technicalities.

11. It is true that the Coordinate Bench of this Court while disposing of the earlier revision petition had granted only one opportunity to the petitioners to file written statement. However, the peculiar facts and circumstances of the present case cannot be ignored. The record reflects that the relevant dates coincided with a strike/no-work call by the local Bar Association, due to which normal court functioning had been affected. The explanation furnished by the petitioners cannot be said to be wholly implausible or lacking bona fides.

12. It is equally well settled that striking off defence or denying opportunity to file written statement is a serious consequence and the Courts ordinarily lean in favour of adjudication on merits rather than shutting out defence altogether, particularly where no irreparable prejudice is likely to be caused to the opposite party and the delay can adequately be compensated by imposition of costs.

13. The Supreme Court as well as this Court have consistently held that unless gross negligence, deliberate inaction or mala fide conduct is apparent, a litigant should ordinarily not be denied opportunity to contest the matter on merits, especially in disputes concerning valuable civil and property rights.

14. In the present case, the trial itself has not concluded and no irreversible prejudice would be caused to the respondents-plaintiffs if one final opportunity is granted to the petitioners to place their defence on record. At the same time, the inconvenience caused to the plaintiffs on

account of delay deserves to be compensated by way of substantial costs so as to balance equities between the parties.

15. Accordingly, without issuing notice to the respondents-plaintiffs, lest it may further delay the proceedings before the trial Court, the present petition is disposed of with a direction to the learned trial Court to grant one final and effective opportunity to the petitioners-defendants to file their written statement subject to payment of costs of ₹50,000/- to the respondent-plaintiff by way of demand draft.

16. It has been informed that the matter is now fixed before the trial Court on 16.05.2026 and the written statement is ready. Accordingly, it is directed that the written statement shall positively be filed on the said date itself along costs as above. It will be for the petitioners to ensure filing of the written statement on date fixed.

17. It is made clear that this shall be treated as the last and final opportunity and under no circumstances shall any further extension or adjournment be granted to the petitioners for filing written statement.

18. Since the present petition is being disposed of without issuing notice to the respondents-plaintiffs, they shall remain at liberty to avail their remedies in accordance with law in case they feel aggrieved by the present order.

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

13.05.2026

Vivek

(DEEPAK GUPTA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>