

(123) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3340-2026

Date of Decision: 21.04.2026

MAHESH KUMAR MEHTA

...Petitioner

Vs.

ALKA MEHTA

...Respondent

CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL

Present: Petitioner in person (through VC).

VIRINDER AGGARWAL, J. (Oral)

1. The present civil revision petition has been filed under Article 227 of the Constitution of India, assailing the order dated 14.01.2026 passed by the learned Additional Civil Judge (Junior Division), Gurugram, whereby the review application preferred by the petitioner seeking review of the order dated 07.03.2025 has been dismissed. Vide the order dated 07.03.2025, the learned Trial Court had dismissed the application filed under Order VIII Rule 10 read with Section 151 CPC.

2. The petitioner instituted a civil suit against the respondent/defendant. Upon service of summons, the respondent entered appearance but failed to file his written statement within the prescribed period. Despite the lapse of more than 300 days from the date of service of summons, no written statement was filed on behalf of the respondent. In these circumstances, the petitioner moved an application under Order VIII Rule 10 read with Section 151 CPC seeking striking off the defence of the respondent/defendant on account of failure to file written statement and for pronouncement of judgment. The said application was, however, dismissed by the learned Civil Court vide order dated 07.03.2025. Aggrieved thereby, the

petitioner preferred a review application seeking recall/review of the said order, which too was dismissed by the learned Civil Judge (Junior Division), Gurugram vide the impugned order dated 14.01.2026. Feeling dissatisfied with the aforesaid orders, the petitioner has now approached this Court by way of the present civil revision petition under Article 227 of the Constitution of India.

3. Petitioner contends that the learned Civil Court has failed to properly appreciate the mandate of Order VIII Rule 1 as well as Order VIII Rule 10 CPC. It is submitted that the respondent/defendant did not file the written statement within the prescribed maximum period of 90 days, despite having been granted numerous opportunities by the Court. It is further contended that, in view of the continued default on the part of the respondent, the petitioner was constrained to move an application under Order VIII Rule 10 CPC seeking striking off of the defence and for pronouncement of judgment. However, the learned Civil Judge has erroneously dismissed the said application by recording a factually incorrect finding that there was no delay in filing the written statement, whereas, in fact, the written statement was taken on record only on the 368th day. It is thus urged that the impugned order suffers from patent illegality and manifest factual error, and once such an error was apparent on the face of the record, the same ought to have been rectified in review proceedings. Accordingly, it is submitted that the dismissal of the review application is also unsustainable in law.

4. I have heard the petitioner and gone through the file carefully.

5. Learned Civil Judge, vide order dated 07.03.2025, dismissed the application under Order VIII Rule 10 CPC by recording findings in paragraph Nos. 7 to 9 thereof, which read as under:

7. As per Order VIII Rule 1 CPC, the written statement shall be filed within 30 days from the date of service of summon. But if the defendant fails to submit his written statement within 30 days, the period of 30 days may be extended by the Court not exceeding 90 days. Whether the maximum period of 90 days contemplated under this rule can be further extended was discussed in the case titled as "Kailash Vs Nanku-2005 (SC) -2441". It has been held that provisions of order Order 8 Rule 1, CPC fixing time for filing written statement are directory and not mandatory, since it is the part of procedure law. Rule 1 of the Order 8 spells out disability on the defendant, it does not impose embargo on Court's power. However, the extension may be granted not as a matter of routine merely on the asking of the defendant. Further, all the rules of procedure are handmaid of justice and the procedural law is not a tyrant but servant, not an obstruction but an aid to justice.

8. Therefore, so far as the outer limit of 90 days for filing of written statement provided under proviso to Rule 1 of Order 8 is concerned, it is a directory condition couched as a mandate by the use of the word 'shall', as observed by Hon'ble Supreme Court of India in Salem Advocate Bar Association Vs Union of India, 2005 (6) SCC 344.

9. On the analogy of law discussed above, a perusal of case file transpires that in the present case a suit for declaration and mandatory injunction was filed by the plaintiff on dated 05.03.2024 and notice was issued for the appearance of defendant for 11.03.2024. On, 11.03.2024, the defendant appeared in person, in pursuance of said notice and thereafter, the present case was adjourned to 20.05.2024 for filing of written-statement on behalf of defendant. However, on 20.05.2024, the learned counsel for the defendant moved an application under order rule 11 CPC. The above said application under order 7 Rule 11 was



disposed of as dismissed by this court vide order dated 22.11.2024, and thereafter the present case was adjourned to 23.01.2025 for filing reply by the defendant to the application beforehand. Further, on 23.01.2025, the reply to the above said application was filed on behalf of defendant and the case was adjourned for 14.04.2025 for arguments. However, on dated 05.02.2025, the plaintiff moved an application for preponment of the present case as 14.04.2025 was declared as holiday. Consequently, the present case was preponed on dated 15. 02. 2025 and adjourned to 07. 03. 2025 for the purpose already fixed. Therefore, evidently in the present case, there was no delay on the part of defendants to file the written statement. Moreover, today the Ld. counsel for the defendant has placed on file the written-statement along with an affidavit and reply to the application under order 39 rule 1 and 2 read with section 151 of CPC. Therefore, this Court in the interest of justice and in an attempt to strengthen the principles of natural justice inbuilt in all procedural laws deems it a fit case to exercise the discretion and takes on record the written-statement along affidavit and reply to the application filed by the Ld. counsel for defendant.

6. The review application filed by the petitioner was dismissed by the learned Civil Judge by first adverting to the limited scope of review jurisdiction. It was observed that a review is maintainable only in cases where there is an error apparent on the face of the record, discovery of new and important matter or evidence which, despite due diligence, was not within the knowledge of the party, or for any other sufficient reason recognised in law. It was further held that, in the present case, the petitioner in essence sought reconsideration of the very same contentions which had already been raised and duly adjudicated upon while deciding the application under Order VIII Rule 10 CPC. The learned Court noted that the order dated 07.03.2025 had been passed after due consideration of the service of summons upon the defendant, the delay in filing the written statement, the explanation offered for

such delay, as well as the settled legal principles governing the exercise of powers under Order VIII Rule 10 CPC. The Court further observed that the grounds urged in the review application were nothing but a reiteration and repetition of the submissions already advanced and considered at the time of deciding the original application. It was emphasised that the jurisdiction of review cannot be invoked as a mechanism for rehearing or re-arguing the matter on merits, and that an attempt to do so is impermissible in law. Accordingly, holding that no ground for review was made out, the learned Civil Judge dismissed the review application.

7. During the course of arguments before this Court, the petitioner has again reiterated his submissions based on Order VIII Rule 10 CPC. However, it is pertinent to note that the learned Civil Judge had already considered and declined the said application by recording detailed findings. It was observed that after the respondent/defendant put in appearance on 11.03.2024, an application under Order VII Rule 11 CPC was filed on 20.05.2024, which was decided on 22.11.2024. Thereafter, the matter was adjourned to 23.01.2025 for filing reply to the application moved by the petitioner under Order VIII Rule 10 read with Section 151 CPC. The reply was duly filed on the said date, and the case was thereafter adjourned to 14.04.2025 for arguments. These procedural developments were duly taken into consideration by the learned Civil Judge while declining the relief sought by the petitioner under Order VIII Rule 10 CPC.

8. On the application moved by the petitioner, the matter was preponed to 15.02.2025 and thereafter adjourned to 07.03.2025. On the said date, it was observed that there was no delay attributable to the defendant in

filing the written statement. The learned Civil Judge has further taken into consideration the settled legal position governing the filing of written statement, including the prescribed outer limit of 90 days, as well as the judicial pronouncements holding that the provisions of Order VIII Rule 10 CPC are directory in nature and must be applied with due regard to the facts and circumstances of each case.

9. In view of the aforesaid, it is evident that the application moved by the petitioner has been decided on merits after due consideration of the procedural history of the case and the applicable legal principles. Since no error apparent on the face of the record has been demonstrated, the learned Civil Judge has rightly dismissed the review petition. The impugned order does not suffer from any illegality, perversity, or jurisdictional error so as to warrant interference. Accordingly, the revision petition is **dismissed**.

(VIRINDER AGGARWAL)
JUDGE

21.04.2026

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