



122 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-3397-2026

Date of Decision: 22.04.2026

BALWINDER SINGH

..... Petitioner

VERSUS

NIKHIL ARORA

..... Respondent

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Ashish Soi, Advocate
for the petitioner.

YASHVIR SINGH RATHOR, J. (Oral)

1. This revision petition is directed against the order dated 20.01.2026 (Annexure P-10) passed by the Court of learned Civil Judge (Junior Division), Ludhiana vide which the application filed by the petitioner/defendant under Section 151 CPC for recalling the order dated 04.11.2024 (Annexure P-6), whereby the defence of the petitioner to the counter-claim was struck off, has been dismissed.

2. Before proceeding further, the relevant portion of the order dated 04.11.2024 is reproduced as under:-

“Defence of the defendant to the counter claim strike off. Written statement to the counter claim on behalf of defendants has not been filed today. It is pertinent to mention here that several effective opportunities were given to the plaintiff to file his written statement to counter claim but failed to file the same. Even the cost so imposed has not



been paid by the defendant. Therefore, seeing the attitude of the plaintiff for not filing their written statement to the counter claim, his defence to the counter claim is hereby struck off.”

3. In view of the nature of the order proposed to be passed, issuance of notice to the respondent is dispensed with, as it would only delay the proceedings and cause unnecessary expenditure to the respondent.

4. I have heard the learned counsel for the petitioner/revisionist and have gone through the material on record.

5. Learned counsel for the petitioner/revisionist contended that the counter-claim was filed by defendant on 28.08.2024 and the defence was struck off on the third date, i.e., 04.11.2024. It is contended that the defence was struck off prematurely within 68 days, whereas the statutory period for filing a written statement is 90 days. It is further contended that the delay was primarily due to the unsatisfactory response and lapse on the part of the previous counsel. Learned counsel further contended that in non-commercial suits, the provision of filing a written statement within 90 days is directory and not mandatory and the Court should have afforded an opportunity to file the written statement in the interest of justice.

6. The record shows that after the counter-claim was filed on 28.08.2024, the petitioner failed to file the written statement by 04.11.2024, leading to the striking off of his defence. However, instead of



passing such a harsh order, the Court ought to have granted one more opportunity to the petitioner/plaintiff to file the written statement in the interest of justice, subject to payment of cost, as valuable rights of the defendant are involved. In case, the defence is struck off, a party is deprived of the opportunity to set up its defence to the claim of the opposite party.

7. Accordingly, in the interest of justice, one opportunity is granted to the plaintiff/petitioner to file the written statement to the counter-claim, subject to payment of Rs.5,000/- as costs and the impugned order is accordingly set aside.

8. In case the petitioner fails to file the written statement within three weeks or to pay the cost, no further adjournment shall be granted.

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

(YASHVIR SINGH RATHOR)
JUDGE

22.04.2026
Priyanka Thakur

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