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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CR-3466-2026****Date of Decision: 23.04.2026****SURESH SIWACH****...Petitioner****Vs.****VISHNU SINGH AND OTHERS****...Respondent****CORAM:- HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present: Mr. Sandeep Goyat, Advocate
for the petitioner.

VIRINDER AGGARWAL, J. (Oral)

1. The present petition has been filed under Article 227 of the Constitution of India seeking setting aside of the order dated 01.12.2025 passed by the learned Civil Judge (Junior Division), Bhiwani, whereby the defence of the petitioner/defendant No. 1 has been ordered to be struck off.

2. Briefly stated, the plaintiff-respondent No. 1 filed a suit for specific performance of an agreement to sell dated 07.06.2021 against the petitioner and other defendants, and during the pendency of the proceedings it was brought to the notice of the Trial Court that defendant No. 2, namely Balraj, had expired, whereupon the Court directed the plaintiff to file an application for bringing on record his legal representatives; however, despite repeated opportunities granted on various dates including 03.04.2024, 09.05.2024, 08.08.2024, 28.11.2024, 13.02.2025 and 20.05.2025, the plaintiff failed to do so. Thereafter, the case was transferred to the Court of Civil Judge (Junior Division), Bhiwani, and on 16.09.2025, the learned Trial Court granted a last opportunity to defendant No. 1 to file the written statement subject to payment of costs of ₹200/-. Subsequently, on 01.12.2025, the learned Trial

Court, observing that the statutory period of 90 days for filing the written statement had expired, ordered the defence of defendant No. 1 to be struck off.

It is submitted that the petitioner was completely unaware of the said last opportunity and the imposition of costs, as the previous counsel failed to communicate the same or apprise the petitioner of the status of the proceedings, and therefore, the non-filing of the written statement was neither intentional nor deliberate.

3. A perusal of the impugned order reveals that the written statement as well as the reply to the stay application on behalf of defendant No. 1 had not been filed. Learned Trial Court further observed that several opportunities had already been granted to defendant No. 1 for filing the written statement; however, the same had not been filed till date, and no justification had been furnished even on the date of passing of the order. It was also observed that the statutory period of 90 days, as prescribed under the Code of Civil Procedure, had already expired; accordingly, the defence of Defendant No. 1 was ordered to be struck off.

4. Under the provisions of Order 8, Rule 1 of the CPC, a period of 30 days is prescribed from the date of service of notice for filing a written reply, which may be extended up to 90 days in appropriate cases. However, this period is not sacrosanct or mandatory, and further time may be granted in exceptional cases where the respondent is unable to file the reply for reasons beyond his control, subject to recording of such reasons. The present case, however, does not fall within this category. Consequently, there is no illegality or infirmity in the order passed by the learned Civil Judge (Junior Division), Bhiwani.



5. In the present case, the petitioner/defendant No.1 has not filed the written reply even after a considerable period of time and even the date of appearance after service of notice has not been mentioned. However, considering the interest of justice and in order to allow the parties to contest the petition on its merits, the petitioner is granted one final 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 shall be paid to the respondent/plaintiff.

6. In view of the above, the present petition is disposed of.

(VIRINDER AGGARWAL)
JUDGE

23.04.2026

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