



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

110

CR-4104-2026

Date of decision: 15.05.2026

MANPREET SINGH

....PETITIONER

VERSUS

RAHUL KUMAR

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Present : Mr. Amandeep Singh, Advocate for the petitioner/revisionist.

YASHVIR SINGH RATHOR, J. (ORAL)

1. This revision petition is instituted under Article 227 of the Constitution of India for setting aside the order dated 09.04.2026 passed by learned Civil Judge (Junior Division), Ludhiana vide which the defence of the petitioner/defendant to file his written statement was struck off.
2. I have heard learned counsel for the petitioner/revisionist and have perused the material placed on record.
3. The relevant portion of the impugned order which has been assailed is reproduced as under:-

“1. This order of mine shall dispose of an application filed by the plaintiff under Order 8 Rule 10 of the Code of Civil Procedure for striking off the defence of the defendant on account of failure to file written statement within the prescribed period. Briefly stated, the plaintiff has instituted the present suit for recovery, injunction and declaration against the defendant. The record reveals that the defendant appeared before the Court on 10.01.2025 and was granted opportunity to file written statement. Vide order dated 23.05.2025, the defendant was specifically directed to file written statement within the statutory period. It is an admitted position on record that despite lapse of the statutory period prescribed under Order 8 Rule 1 CPC, and despite



sufficient opportunities having been granted by this Court, the defendant has failed to file written statement till date.

2. The defendant has filed reply to the present application taking preliminary objections that the application is not maintainable and that delay occurred due to circumstances such as supply of documents and no-work day call. It has also been pleaded that written statement has now been filed.

3. I have heard learned counsel for the parties and perused the record carefully.

Order 8 Rule 1 CPC mandates that the defendant shall file written statement within 30 days from the date of service, extendable up to 90 days for reasons to be recorded. The provision, though directory in nature, casts an obligation upon the defendant to act with due diligence and not to delay the proceedings unnecessarily.

4. In the present case, the defendant appeared on 10.01.2025 and even thereafter, ample opportunities were granted. The plea taken by the defendant regarding delay due to supply of documents and no-work day does not satisfactorily explain the entire period of delay. The record reflects that sufficient time far beyond the statutory limit has already been availed. The contention of the defendant that written statement has now been filed does not, by itself, entitle the defendant to have the same taken on record as a matter of right, especially when there is inordinate and unexplained delay. At the same time, it is settled law that striking off defence is a serious consequence and the Court must exercise such power judiciously, balancing the right of defence with the need to ensure expeditious disposal of cases.

5. In the facts and circumstances of the case, this Court is of the considered view that the defendant has been negligent in not filing the written statement within the prescribed time and has failed to show sufficient cause for such delay. Accordingly, the application filed by the plaintiff is allowed. The defence of the defendant is hereby struck off under Order 8 Rule 10 CPC. The case shall now proceed further in accordance with law. The plaintiff is directed to lead evidence in support of his case. Case is adjourned to 06.05.2026 for plaintiff evidence.”

4. Learned counsel for the petitioner/revisionist contended that

a suit for recovery of Rs.50,40,000/- alongwith suit for declaration and



permanent injunction was instituted by the respondent/plaintiff. The petitioner was initially ordered to be proceeded ex parte vide order dated 10.01.2025. Subsequently, the learned Lower Court set aside the ex parte proceedings on 23.05.2025 and fixed the case for filing of written statement on 21.07.2025. Learned Counsel further submitted that the petitioner moved an application under Order 11 Rule 12 & 14 CPC for the production of original documents, which was decided by the Court on 25.08.2025, and the case was adjourned for filing the written statement on 04.10.2025. He contended that on 04.10.2025, the respondent moved an application for striking off the defence, whereas the petitioner filed the written statement on 11.11.2025. He contended that under these circumstances, the delay was due to the time taken in the application for production of documents, but the learned Trial Court did not consider the written statement that had already been filed and passed the impugned order on 09.04.2026 for striking off defence. A prayer has been made that one opportunity be granted and the learned Lower Court be directed to take on record the written statement already filed by the petitioner in the interest of justice.

5. It is well settled that the Court should exercise discretion in exceptional cases to allow defendants to file written statement beyond the prescribed period of 90 days as the provision under Order VIII Rule 1 is directory and not mandatory. No doubt, there has been delay on the part of the petitioner in filing the written statement but this Court is of the view that the rules of procedure are handmaids of justice and should not be used to prevent the determination of a case on its merits, especially

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when valuable rights of a party are involved. A party should not be deprived of an opportunity to set up its defence to the claim of the plaintiff solely on technical grounds.

6. A perusal of the record shows that from 23.05.2025 (when the ex parte order was set aside) to 04.10.2025, the learned Trial Court had granted opportunities to the petitioner to file his written statement. The record further shows that an application for production of documents was moved and decided on 25.08.2025. The written statement was filed on 11.11.2025, but the defence of the defendant was struck off on 09.04.2026 which shows that written statement had already been filed before the defence was ordered to be struck off.

7. Accordingly, in the interest of justice, the impugned order is hereby set aside and the learned Trial Court is directed to take on record the written statement already filed by the petitioner.

8. Disposed of accordingly.

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

15.05.2026

Vishal Vardhan

**(YASHVIR SINGH RATHOR)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No