



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

129**CR-4257-2026 (O&M)****Date of decision:20.05.2026**

SHIV NANDAN THAKUR

...PETITIONER

VERSUS

GURBAKSH CHOUDHARY AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PARMOD GOYAL

Present: Mr. R.S. Manhas, Advocate
for petitioners.

PARMOD GOYAL, J. (ORAL)

Present civil revision petition has been preferred under Article 227 of the Constitution of India by petitioner-defendant No.2 being aggrieved by impugned order dated 11.05.2026 (Annexure P-6) passed by learned Additional Civil Judge (Senior Division) Pathankot, whereby his right to file written statement and reply to application under Order XXXIX Rules 1 and 2 of Code of Civil Procedure, 1908 ('CPC') has been struck off.

2. In the suit preferred by respondent No.1-plaintiff for permanent injunction, defendants No. 1 and 3 had duly filed their written statement and reply to application under Order XXXIX Rules 1 and 2 of CPC. Defendants No.4 to 13 were proceeded *ex parte*. Defendants No.2 and 16 had duly appeared on 29.04.2023 and 11.07.2023, respectively. Thereafter, defendants No.2 and 16 kept on seeking dates for filing written statement and reply to aforesaid application, however, despite availing numerous opportunities for about three years, they failed to do the needful.

3. Learned Court had accordingly struck off defence of petitioner-defendant No.2 and defendant No.16 vide impugned order dated 11.05.2026.

4. On consideration, I do not find any error in the impugned order passed by learned Court below. The present situation has arisen on account of fault on the part of petitioner-defendant No.2 himself. However, wherever the other side can be compensated with cost, the Courts prefer to allow the defaulted party to contest the suit on merits in order to achieve substantial justice. In present case also, since defendants No.14 and 15 are yet to be served and matter is still at the stage of filing of written statement and consideration of aforesaid application, it would be appropriate to grant one opportunity to petitioner-defendant No.2 to file his written statement and reply to application under Order XXXIX Rules 1 and 2 of CPC subject to cost of Rs.40,000/- (Rupees Forty Thousands only).

5. Accordingly, petitioner-defendant No.2 is directed to file written statement and reply to application under Order XXXIX Rules 1 and 2 of CPC on next date already fixed before the Court of First Instance i.e. 01.08.2026. Petitioner-defendant No.2 shall pay Rs.20,000/- (Rupees Twenty Thousands only) to respondent No.1-plaintiff and Rs.20,000/- (Rupees Twenty Thousands only) to District Legal Services Authority, Pathankot.

6. Present revision petition is disposed of in above terms.

7. Pending application(s), if any, stand disposed of.

(PARMOD GOYAL)
JUDGE

20.05.2026

Sunil Chander

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>