



CR-4428-2026

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

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CR-4428-2026

Date of decision: 25.05.2026

SUBHASH NISHAD AND OTHERS**....PETITIONERS/DEFENDANTS****VERSUS****RAM SAROOP****...RESPONDENT/PLAINTIFF****CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR**

Present : Mr. Akshay Goel, Advocate,
Mr. Aditya Gautam, Advocate and
Ms. Noor Sardana, Advocate for the petitioners/defendants.

YASHVIR SINGH RATHOR, J. (ORAL)

1. This revision petition is directed against the impugned orders dated 24.04.2026 (Annexure P-5) and 24.10.2025 (Annexure P-4) passed by the Court of learned Additional Civil Judge (Senior Division), Dera Bassi, vide which the application filed by the petitioners under Section 151 CPC for recalling the order dated 24.10.2025 whereby defence was struck off, has been dismissed as well as the order dated 24.10.2025 (Annexure P-4), vide which the defence of petitioners/defendants No.1 to 4 was struck off.

2. 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.



3. I have heard learned counsel for the petitioners/defendants and have perused the material placed on record.

4. The relevant portion of the impugned order dated 24.10.2025 vide which defence of defendants was struck off is reproduced as under:-

“ Today again written statement on behalf of defendant No. 1 to 4 not filed despite being last opportunity. Perusal of the case file reveals that the case is pending for filing written statement since long. Perusal of the case file further reveals that the defendant No. 1 to 4 have already availed numerous opportunities including last opportunities but defendant No. 1 to 4 failed to file written statement. Period of 90 days has already elapsed since their appearance. It seems that they does not want to file the written statement. As such defence of defendant No. 1 to 4 is struck off.

The present suit is for specific performance. As such, alienation of the property is stayed till the disposal of the suit. To come up on 05.12.2025 for plaintiff evidence.”

5. Learned counsel for the petitioners/revisionists contended that the suit for specific performance was instituted on 10.03.2025 on the basis of an Agreement to Sell dated 21.02.2018. Petitioners put in appearance on 20.05.2025. However, due to an inadvertent error of the learned Trial Court, the presence of defendants No. 2 to 4 was not marked and defendant No. 4 was proceeded against ex parte. On 23.10.2025, the learned Trial Court clarified the error and permitted defendant No. 4 to join proceedings and adjourned the matter to 24.10.2025 for filing of the written statement subject to last opportunity. Learned Counsel further submitted that on 23.10.2025, their counsel could not appear on account of illness and had instructed his staff to seek an adjournment and case was adjourned to 24.10.2025. However, it was not possible to prepare and file



the written statement on the very next day. He contended that under these circumstances, the delay in filing the written statement was neither intentional nor deliberate, leading to the striking off their defence on 24.10.2025. A prayer has been made that one opportunity be granted to file the written statement in the interest of justice.

6. A perusal of the record shows that from 20.05.2025 to 24.10.2025, the learned Trial Court had granted opportunities to the petitioners to file their written statement. The record further shows that on 24.10.2025, the written statement was not filed and consequently the defence of defendants No. 1 to 4 was struck off. Subsequently, an application under Section 151 CPC was filed by the petitioners for recalling the said order, which has been dismissed on 24.04.2026.

7. It is well settled that the Court must 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 petitioners 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 thwart the determination of a case on its merits, especially 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 plaintiffs solely on technical grounds if the opposite party can be compensated by way of costs.



8. Accordingly, in the interest of justice, one opportunity is granted to the petitioners/defendants to file their written statement, subject to payment of Rs. 5,000/- as costs. Consequently, the impugned orders dated 24.04.2026 (Annexure P-5) and 24.10.2025 (Annexure P-4) are hereby set aside.

9. In case, petitioners fail to file the written statement within two weeks or to pay the cost, no further adjournment shall be granted to them.

10. Disposed of accordingly.

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

25.05.2026

Vishal Vardhan

**(YASHVIR SINGH RATHOR)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No