

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****171****CR-4647-2026 (O&M)****Date of decision: 29.05.2026****Nitya Mittal****...Petitioner(s)****Vs.****Mahesh Mittal and others****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Ms. Ankita Malhotra, Advocate
for the petitioner.

NIDHI GUPTA, J.

Present Civil Revision Petition under Article 227 of the Constitution of India has been filed by the petitioner/plaintiff laying challenge to the order dated 18.05.2026 (Annexure P-1) passed by learned Civil Judge (Junior Division), Ambala; whereby application filed by the petitioner/plaintiff under Order 8 Rule 10 read with Order 8 Rule 1 and Section 151 CPC, has been adjourned to 06.07.2026 to enable the respondents/defendants to file reply to the said application; and for filing of written statement to the main suit.

2. Brief facts of the case in chronological order are as follows: -

19.08.2025: Petitioner/plaintiff had filed Civil Suit No. 1377 dated 19.08.2025 for possession by way of partition against the respondents/defendants. Alongwith Civil Suit, petitioner had moved an application (Annexure P-3) under Order 39 Rule 1 & 2 CPC read With Section 151 CPC for grant of ad interim injunction.



05.09.2025: As recorded in order dated 05.09.2025 (Annexure P-4), an application dated 05.09.2025 was moved by the defendants/respondents No.1 to 3 herein under Order 7 Rule 11 CPC for rejection of plaint.

01.05.2026: Vide order dated 01.05.2026 (Annexure P-13), application filed by the respondents under Order 7 Rule 11 CPC stood dismissed.

01.05.2026: On the same date, matter stood adjourned to 18.05.2026 for filing of written statement by the defendants.

18.05.2026: On 18.05.2026 itself, petitioner moved instant application (Annexure P-14) under Order 8 Rule 10 r/w Order 8 Rule 1 and Section 151 CPC for closure of right of respondents to file written statement.

18.05.2026: Vide impugned order dated 18.05.2026 (Annexure P-1), the case has been adjourned to 06.07.2026 to enable the respondents to file reply to the above application; and also, to file written statement.

3. Hence, present Revision Petition.

4. The only argument made by learned counsel for the petitioner is that the respondents cannot be permitted to file written statement after expiry of stipulated period of 30/90 days. Whereas in the present case, more than 8 months from the date of appearance of the respondents, have expired. Despite that, learned Trial Court has failed to close the right of the respondents to file written statement and arbitrarily granted further opportunity without any reason or imposing cost by merely issuing notice in the application filed by the petitioner under Order 8 Rule 10 read with Order 8 Rule 1 and Section 151 CPC.



5. It is submitted that therefore, the impugned order is contrary to the settled principles of law laid down by Hon'ble Supreme Court.

6. In support, learned counsel for the petitioner has relied upon following judgments: -

1. **Civil Appeal No. 5540 of 2016 titled as R.K.Roja v.s U.s.Rayudu and another, decided on 04.07.2016 (Hon'ble Supreme Court);**
2. **Civil Appeal No. 1638 of 2019 titled as M/s. SCG Contracts India Pvt. Ltd. Vs. K.S. Chamankar Infrastructure Pvt. Ltd. and others (Hon'ble Supreme Court);**
3. **C.R.P. 63/2020 & CM Appl. 23570/2020 titled as Shyam Sunder vs. Shikha Arora and another, decided on 23.09.2020 (Delhi High Court); and**
4. **CS (OS) 2202/2011 and CRL.M.A. 4043/2010 titled as Avnija Ahluwalia (Minor) vs. Bikramjit Ahluwalia and others (Delhi High Court).**

7. It is accordingly prayed that the present Revision Petition be allowed; and the impugned order be set aside.

8. No other argument is raised on behalf of the petitioner. I have heard learned counsel and perused the case file in detail. I find no merit in the submissions advanced on behalf of the petitioner.

9. The factual matrix of the case has already been noticed herein-above. A bare reading of the said facts shows that there is no intentional, deliberate, or mala fide delay on the part of the respondents in filing the written statement. Since putting in appearance, the respondents have been actively pursuing their remedies as available to them as per law. As such, the petitioner has shown no cogent reason for not permitting the respondent to file reply. Even otherwise, right of



defence is a valuable right available as per law, which cannot be denied on strictest interpretation of technicality of statute.

10. The judgments referred to by learned counsel for the petitioner are distinguishable on facts and law. No deliberate delay on the part of the respondents has been made out by Id. counsel for the petitioner.

11. The judgment relied upon by learned counsel for the petitioner in **R.K.Roja's case (supra)**, in fact goes against the petitioner *in as much* as in the said case, defendant had approached Hon'ble Supreme Court against denial of opportunity to file written statement during pendency of the application filed by the defendant/petitioner therein under Order 7 Rule 11 CPC. In the said circumstances, Hon'ble Supreme Court had ruled that: *"9. The procedure adopted by the court is not warranted under law. Without disposing of an application under Order VII Rule 11 of the CPC, the court cannot proceed with the trial. In that view of the matter, the impugned order is only to be set aside. Ordered accordingly."*; and the defendant was duly granted opportunity to file written statement: *"Therefore, the application is rejected. In the peculiar facts of this case which we have narrated above, the appellant is given an opportunity to file written statement in the Election Petition within two weeks from today."* Plea of the plaintiff therein that defendant had used pendency of application u/O 7 Rule 11 CPC as a ruse to delay proceedings was rejected. In the present case, it is very clear from the above noted facts that the respondents are not using



application filed by them under Order 7 Rule 11 CPC merely as a ruse for retrieving lost opportunity to file written statement.

12. In **M/s. SCG Contracts India Pvt. Ltd.'s case (supra)**, defendant therein had forfeited right to file written statement and, therefore, the Hon'ble Supreme Court had declined permitting the defendants then to file written statement.

13. In **Shyam Sunder's case (supra)**, Delhi High Court held as under:-

"9. The provisions of Order VIII CPC provide a complete timeline and scheme for filing of the written statement. The said scheme would have to be followed. There are certain conditions that have to be satisfied for a party to seek condonation of delay in filing the written statement. The non-filing of the written statement within the time prescribed has consequences in law for parties. The grant of a further extension of time, in a casual manner simply upon an oral request without an application thereto being filed and explaining the delay in filing the written statement, would be contrary to law. Even the lockdown due to the pandemic can only extend the original period of limitation and not the period up to which delay can be condoned."

14. Even reliance of the petitioner on **Avnija Ahluwalia (minor)'s case (supra)**, is misplaced as in the said case, Delhi High Court had held as under:-

"22. Further, the present suit has been filed, inter alia, seeking a decree of partition, rendition of accounts and it would be expedient to consider the defence raised by the



defendants. Although, there has been inordinate delay in filing of the written statement, in my view, it would not be in the interest of justice, to shut out the defendants from filing the written statement. However, I am unable to accept that the applications filed by the defendants ought to have been allowed without imposition of costs. Accordingly, the respondents are directed to pay costs which are quantified at ₹25,000/- and the impugned order is modified to that extent.”

15. Therefore, petitioner can derive no benefit from the above judgements. In any event, facts of each case have to be considered on their own merit.

16. In the present case, needless to say, defence of the respondents/defendants cannot be foreclosed without granting opportunity to them to file reply to the instant application (Annexure P-14) filed by the petitioner, which is admittedly still pending.

17. Thus, I find no infirmity in the impugned order dated 18.05.2026 (Annexure P-1). The present Civil Revision stands **dismissed**.

18. Pending application(s) if any also stand(s) disposed of.

29.05.2026

Divyanshi

(NIDHI GUPTA)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No