

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

(119)

CR-4595-2026 (O&M)
Date of Decision: **29.05.2026**

SHIV KUMAR

... Petitioner(s)

Versus

USHA RANI

... Respondent(s)

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CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL

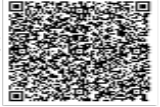
Present:- Mr. Raghav Bali, Advocate
for the petitioner.

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VIRINDER AGGARWAL, J. (Oral)

1. The present revision petition has been instituted under Article 227 of the Constitution of India, invoking the supervisory jurisdiction of this Court, assailing the order dated 12.02.2026 passed by the learned Additional Civil Judge (Senior Division), Amloh, whereby the application filed by the petitioner-plaintiff under Order VIII Rule 1 of the Code of Civil Procedure, 1908 (for short, "CPC") seeking striking off the defence of the respondent-defendant was dismissed.

2. It has been contended that the petitioner-plaintiff instituted a civil suit seeking specific performance of an agreement to sell. Upon service of notice, the respondent-defendant appeared through counsel on 11.04.2025, thereafter the matter was adjourned to 09.05.2025 for filing of the written statement. However, on the said date, the case stood transferred to another Court and the written statement was not filed. Thereafter, the



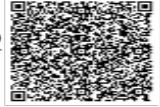
matter was adjourned to 15.07.2025 for filing of the written statement and subsequently to 29.07.2025. On the said date, the petitioner-plaintiff moved an application seeking striking off the defence of the respondent-defendant on account of failure to file the written statement within the statutorily prescribed period.

2.1. It is further submitted that the matter was adjourned to 19.08.2025 for filing reply to the aforesaid application. However, instead of filing reply, the respondent-defendant proceeded to file the written statement on the said date. Thereafter, the matter was repeatedly adjourned for filing reply to the application, which ultimately came to be filed on 22.01.2026. Thereafter, vide the impugned order, the learned Trial Court dismissed the application preferred by the petitioner-plaintiff.

3. Aggrieved against the impugned order so passed by the learned Trial Court, the petitioner has preferred the present revision petition.

4. Learned counsel for the petitioner contended that the learned Civil Judge failed to appreciate the fact that the respondent-defendant filed the written statement only after the petitioner had moved an application seeking striking off the defence. It is submitted that the dismissal of the said application is contrary to the mandate of Order VIII Rule 1 of CPC. It is further argued that the learned Trial Court, while passing the impugned order, proceeded on assumptions *dehors* the statutory provisions governing the filing of written statements.

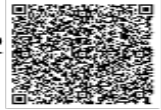
5. A perusal of the impugned order reveals that the learned Trial Court has specifically recorded that the case had been transferred to the



Court of Ms. Prerna Gupta, learned Civil Judge, Amloh, who thereafter made a reference to the learned District Judge, Fatehgarh Sahib, seeking transfer of the matter to the Court of competent jurisdiction. The record further reflects that vide order dated 09.05.2025, the file was transmitted to the Court of the learned District Judge, Fatehgarh Sahib, and thereafter the matter ultimately came to be transferred back to the Court where it was originally pending. The file was received back by the concerned Court on 29.07.2025, on which date the petitioner moved an application seeking striking off the defence of the respondent-defendant. However, on the very next date, i.e. 19.08.2025, the respondent-defendant filed the written statement.

5.1. It is true that under the provisions of Order VIII Rule 1 of CPC, the written statement is ordinarily required to be filed within thirty days from the date of service, which period may be extended up to ninety days. However, it is equally well settled that the said period is directory and not mandatory in nature, and in appropriate cases, where sufficient cause is shown and circumstances beyond the control of the defendant exist, the Court is competent to extend the time for filing the written statement even beyond the prescribed period.

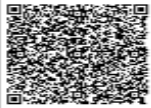
5.2. In the present case, the record clearly demonstrates that the file remained unavailable before the learned Civil Judge from 19.05.2025 till 29.07.2025, during which period the matter was pending before the learned District Judge in connection with the reference for transfer to the competent Court. Consequently, the respondent-defendant could not have effectively filed the written statement during the said intervening period.



The respondent-defendant initially appeared on 11.04.2025, and if the period during which the file remained unavailable before the Trial Court is excluded, the effective delay in filing the written statement would, in any case, fall within the permissible extended period contemplated under law.

5.3. In view of the peculiar facts and circumstances of the present case, the learned Trial Court rightly exercised its judicial discretion in taking the written statement on record and dismissing the application filed by the petitioner for striking off the defence. This Court does not find any illegality, perversity, or jurisdictional infirmity in the impugned order warranting interference in exercise of revisional jurisdiction. Consequently, the present revision petition, being devoid of merit, is hereby **dismissed**.

6. It is, however, clarified that the observations recorded hereinabove are confined exclusively to the adjudication of the present proceedings and shall not be construed as an expression of opinion on the merits of the underlying dispute between the parties. All findings and observations made in this judgment are limited strictly to the determination of the issues arising for consideration in the present appeal and have been recorded solely for the purpose of deciding the controversy involved herein. Nothing contained in this judgment shall prejudice, influence, or affect the rights, claims, pleas, or contentions of either party in any other proceedings, nor shall the same be treated as a conclusive determination of any substantive question of fact or law involved in the principal matter.



7. Consequent upon the final adjudication of the present appeal, all pending miscellaneous applications, if any, arising out of or connected with the instant proceedings, shall also stand disposed of by necessary implication. In view of the conclusions arrived at here-in-above, no separate or further orders are required to be passed in respect thereof.

29.05.2026
Gaurav Sorot

(**VIRINDER AGGARWAL**)
JUDGE

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No