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

CR-6995-2024 (O&M)

Date of Decision : 10.03.2026

MAHIPAL

.... Petitioner

VERSUS

M/S MARUTI UDYOG LTD AND OTHERS

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Jagmohan Ghumman, Advocate for the petitioner.
(joined through hybrid mode)

Mr. Gurinder Singh Mehra, Advocate for respondent No.2.

None for respondents No.1, 3, 4 and 5.

ALKA SARIN, J. (ORAL)

1. The present revision petition has been filed challenging the order dated 23.08.2024 passed by the learned Civil Judge (Junior Division) whereby the application filed by plaintiff No.2-petitioner herein for striking off the defence of defendant-respondent No.2 herein was dismissed.

2. Brief facts relevant to the present lis are that defendant-respondent No.2 herein had put in appearance on 26.07.2023 and did not file the written statement despite a period of 90 days having elapsed. A further opportunity was granted vide order dated 07.08.2024 subject to ₹1,000 as costs and the said costs were duly paid by defendant-respondent No.2. After the written statement was filed, an application was filed by plaintiff No.2-petitioner herein for striking off the defence of defendant-respondent No.2

which was dismissed vide impugned order dated 23.08.2024. Hence, the present revision petition.

3. Learned counsel for plaintiff No.2-petitioner would contend that since the written statement was not filed within the mandated period, hence the defence ought to have been struck off. It is further the contention of the learned counsel that though in the order it has been stated that the costs were duly paid however, the same were not paid.

4. *Per contra*, learned counsel for defendant-respondent No.2, who is the only contesting respondent, would contend that last opportunity was given subject to costs which were deposited and as such the written statement was also filed.

5. Heard.

6. In the present case vide order dated 07.08.2024 last opportunity was granted to defendant-respondent No.2 to file his written statement subject to ₹1,000 as costs which, as per the order, were duly deposited. Though the said fact is disputed by the learned counsel for the plaintiff-petitioner, however, in the entire petition there is not even an averment that the said fact has wrongly been recorded in the order. After last opportunity was granted, in compliance of the order, the written statement was filed by defendant-respondent No.2. Thereafter, the application was filed by the plaintiff-petitioner for striking off the defence.

7. The Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D) through proposed LR Ms. Rohini [(2020) (1) RCR (Civil) 807]** has held as under :

“ANALYSIS & CONCLUSION

11. At the outset, it must be noted that the Commercial Courts Act, 2015 through Section 16 has amended the CPC in its application to commercial disputes to provide as follows:

“16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.-(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a specified value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of

Civil Procedure as amended by this Act shall prevail.”

12. Hence, it is clear that post coming into force of the aforesaid Act, there are two regimes of civil procedure. Whereas commercial disputes [as defined under Section 2(c) of the Commercial Courts Act, 2015] are governed by the CPC as amended by Section 16 of the said Act; all other noncommercial disputes fall within the ambit of the unamended (or original) provisions of CPC.

13. The judgment of Oku Tech (supra) relied upon the learned Single Judge is no doubt good law, as recently upheld by this Court in SCG Contracts India Pvt. Ltd. v. KS Chamankar Infrastructure Pvt. Ltd., AIR 2019 SC 2691, but its ratio concerning the mandatory nature of the timeline prescribed for filing of written statement and the lack of discretion with Courts to condone any delay is applicable only to commercial disputes, as the judgment was undoubtedly rendered in the context of a commercial dispute qua the amended Order VIII Rule 1 CPC.

14. As regard the time-line for filing of written statement in a non commercial dispute, the observations of this Court in a catena of decisions, most recently in Atcom Technologies Ltd. v. Y.A. Chunawala and Co., (2018) 6 SCC 639 holds the field. Unamended Order VIII Rule I,

CPC continues to be directory and does not do away with the inherent discretion of Courts to condone certain delays.”

Keeping in view the fact that the provisions of Order VIII Rule 1 CPC have been held to be directory and not mandatory in the case of a non-commercial suit, no fault can be found with the impugned order.

8. In view of the above, I do not find any merit in the present revision petition and the same is accordingly dismissed. Pending applications, if any, also stand disposed off.

10.03.2026
Aman Jain

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: Yes/No