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

**CR-1625-2025(O&M)  
Date of decision:-26.05.2025**

Balbir Singh and another

...Petitioners

Versus

Surjit Singh

...Respondent

**CORAM : HON'BLE MR. JUSTICE SUVIR SEHGAL****Present** : Mr. Amit Arora, Advocate  
for the petitioners.

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**SUVIR SEHGAL, J.(ORAL)****CM-10410-CII-2025**

1. For the reasons given in the application, it is allowed.
2. Affidavits of petitioners are taken on record as Annexures P4 and P5.

**MAIN PETITION**

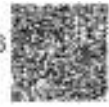
3. Instant revision petition has been filed assailing order dated 20.12.2024, Annexure P3, passed by the learned Additional Civil Judge (Sr. Divn.), Khadur Sahib, District Tarn Taran.
4. Counsel for the petitioners asserts that a suit, Annexure P1, for permanent injunction has been filed by the respondent/plaintiff for



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restraining the petitioners from interfering in the suit land and by order dated 11.09.2024, Trial Court directed the parties to maintain status quo regarding the suit property. He submits that upon being served, defendants appeared before the Trial Court on 10.10.2024 and sought deferment to file reply. By making a reference to the affidavits, Annexures P4 and P5, counsel states that due to their advanced age and inability to move about, defendants could not supply the documents to the counsel and consequently written statement could not be filed. He submits that by the impugned order, Trial Court has erred in striking off the defence of the defendants by holding that statutory period for filing the written statement has lapsed. He has requested that one opportunity be given to the petitioners/defendants to file written statement and any reasonable costs may be imposed.

5. Heard counsel for the parties.
6. Given the nature of order proposed to be passed, this Court does not deem it necessary to call upon the respondent.
7. A perusal of the interim orders, Annexure P2, show that petitioners/defendants had availed of three opportunities for filing the written statement and despite imposition of costs, response was not filed. It is evident that there is a delay on the part of the defendants. Be that as it may, in case they are not given an opportunity to present their stand before the Trial Court, their defence is likely to be adversely effected. Hon'ble Supreme Court in *Zolba Versus Keshao and others (2008) 11 Supreme Court Cases 769* has held that proviso to Order 8 Rule 1 CPC is not mandatory in nature and it is open to the Court to



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permit a defendant to file written statement if exceptional circumstances have been made out. Considering that defendants are septuagenarians and their medical condition, this Court is satisfied that an opportunity deserves to be granted to them.

8. Accordingly, revision petition is allowed. Impugned order dated 20.12.2024, Annexure P3, is set aside. Petitioners/defendants are given an opportunity to file the written statement on or before 11.07.2025, the next date stated to be fixed before the Trial Court. This will be subject to cost of Rs.10,000/- to be deposited with Sahayta Charitable Welfare Society, Sector 15-B, Chandigarh, Bank Account No.911010027828405, IFSC UTIB0001518, Axis Bank, Sector 16, Chandigarh. Deposit of cost shall be a pre condition to the grant of opportunity.

(SUVIR SEHGAL)

JUDGE

26.05.2025

Brij

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No