



CR-1800-2025

-1-

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

(131)

CR-1800-2025

Date of decision:- 21.05.2025

Himanshu Yadav**... Petitioner****Versus****Janamjay Yadav and others****... Respondents****CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. S.P.Yadav, Advocate for the petitioner.

SUVIR SEHGAL, J. (ORAL)

1. Instant revision petition has been filed assailing order dated 18.12.2024, Annexure P-2, passed by the learned Additional Civil Judge (Senior Division), Kosli, District Rewari, whereby defence of petitioner/proforma defendant No.7 has been struck off.
2. Counsel for the petitioner submits that respondent No.1/plaintiff filed a suit for declaration and permanent injunction claiming to be owner in possession of the suit land. He submits that upon being served, defendant No.7, who is a minor, appeared before the Trial Court on 10.08.2022, but did not file the written statement as he intended to concede to the claim of the plaintiff. Counsel submits that the Trial Court has erred in passing the impugned order by holding that the statutory period of filing the written statement has expired and defendant No.7 be granted one opportunity to file the written statement.
3. I have heard counsel for the petitioner and considered his submission.
4. Given the nature of order proposed to be passed, this Court does not deem it necessary to call upon the respondents.

**CR-1800-2025****-2-**

5. A perusal of the zimini orders passed by the Trial Court show that defendant No.7 has been lax and has sought repeated adjournments for over two years for filing his response. However, this Court is of the opinion that in case an opportunity is not granted, his cause is likely to be suffer. Furthermore, Supreme Court in **Bharat Kalra Versus Raj Kishan Chabra, 2022 SCC Online SC 613** has held that the period of 90 days for the filing of the written statement as laid down in Order 8 Rule 1 CPC is not mandatory. Therefore, the reason given by the Trial Court while striking off the defence of defendant No.7 cannot be sustained.

6. Accordingly, revision petition is allowed. Impugned order dated 18.12.2024, Annexure P-2, is set aside.

7. Petitioner/defendant No.7 is granted an opportunity to file the written statement on or before 15.06.2025. This will be subject to cost of Rs.10,000/- with Day Care Centre for Elderly Disabled in home for Old & Destitute People, Sector-15, Chandigarh, being run by Chandigarh Scheduled Castes, Backward Classes & Minorities Financial & Development Corporation, Account No. 0537010195737, IFS Code PUNB0008700, Punjab National Bank, Sector 17-B, Chandigarh. Deposit of cost shall be a pre-condition to grant of opportunity.

21.05.2025

Kamal

(SUVIR SEHGAL)**JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No