



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

(130)

**CR No. 780 of 2025 (O&M)
Date of Decision: 06.02.2025**

Chamkaur Singh

...Petitioner

Vs

MGram Panchayat, Mangewal through its Sarpanch and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Ms. Srishti Shukla, Advocate
and Mr. Kulwinder Singh, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. The present revision petition is directed against the order dated 03.01.2025 (Annexure P-8) passed by the Court of learned Civil Judge (Jr. Division), Nabha, vide which the application filed by respondent-defendant (Gram Panchayat of village Mangewal, Tehsil Nabha, District Patiala), for review of order dated 01.03.2023 vide which defence of the respondent-defendants had been struck off was allowed.

2. The facts, as emanating from the revision petition are that petitioner-plaintiff (Chamkaur Singh) filed a suit for permanent injunction against the respondents-defendants. After putting in appearance and seeking 6 opportunities to file written statement, the same was not filed, as a result of which, vide order dated 01.03.2023, the defence of respondents-defendants was struck off.

3. This led to the filing of an application (Annexure P-6) under Section 114 of the Code of Civil Procedure, 1908 (for short 'CPC') for setting aside the said order. This application was opposed by the petitioner-

defendants by way of reply (Annexure P-7). By way of impugned order, the said application was allowed and one opportunity was granted to the present respondent-defendants to file the written statement subject to payment of costs of Rs.1500/-.

4. I have heard learned counsel for the petitioner.

5. Learned counsel submits that the order passed by the learned trial Court is not sustainable as there was an inordinate delay on behalf of the respondents-defendants in filing the written statement. He submits that under the circumstances, the defence of the respondent-defendants had rightly been struck off.

6. I have considered the submissions made by learned counsel for the petitioner but find the same to be devoid of merit. No doubt, the respondents-defendant was lax in pursuing its case and despite grant of six opportunities, written statement was not filed. However, by way of the impugned order, the trial Court has granted one opportunity to the respondent-defendant to file its written statement keeping in view the interest of justice.

7. In the considered opinion of this Court, no fault can be found with the order of the trial Court. As per provisions As per provisions of Order VIII Rule 1 of the Code of Civil Procedure, 1908 (for short the "CPC"), the written statement is to be filed within a period of 30 days from the date of issuance of summons which is extendable up to 90 days. Order 8 Rule 10 lays down the procedure in case failing to present the written statement. In *Kailash V/s Nanhku and others*, 2005(2) RCR (Civil) 379, the Supreme Court of India opined that the amendment in Rule 8(1) CPC would not impose an embargo on the power of the Court to extend the time

further, as no penal consequences as such have been provided, the provisions being in the domain of the procedural law would not, therefore, be mandatory. It was held that ordinarily the time schedule should be followed as a rule and departure therefrom would be by way of exception and that such extension of time should not be granted as a matter of routine, especially beyond a period of 90 days. It was held that in case any extension is to be granted, the same could be for the good reasons to be recorded in writing may be in brief. Subsequently, the Supreme Court of India was again seized of this issue in the case of *R.N. Jadi V/s Subhashchandra*, 2007 (3) RCR (Civil) 588, wherein it was opined that the grant of extension of time beyond 30 days is not automatic. The Supreme Court of India held that the power of the Court has to be exercised with caution and for adequate reasons to be recorded and extension of time beyond 90 days must be granted only based on a clear satisfaction of the justification for granting such extension.

8. Further, it has to be borne in mind that matters are to be decided on merits and should not be rejected on technicalities unless and until, the conduct of the parties is such, where no intervention is called for.

In view of the aforementioned and circumstances, I do not find any merit in the present revision petition and the same is accordingly dismissed.

(VIKRAM AGGARWAL)
JUDGE

February 06, 2025

Rekha

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No