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

CR-6053-2025

Date of decision: 26.09.2025

**BALWINDER SINGH****..Petitioner****Versus****ANIL KUMAR AND OTHERS****..Respondents****CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Shreya Bhakoo Sarin, Advocate  
for the petitioner.

Mr. Manuj Nagrath, Advocate  
for respondents.

**SUDEEPTI SHARMA, J. (Oral)**

1. The present civil revision petition under Article 227 of the Constitution of India assails the order dated 19.07.2025 passed by the Civil Judge (Junior Division), Ludhiana in Civil Suit No.1638 of 2024, titled "Anil Kumar v. Daljit Singh and Others," dismissing the application filed by the petitioner to recall the order dated 16.12.2024; and the order dated 16.12.2024 in the said suit whereby the defence of the petitioner/defendant No.2 was struck off for non-filing of the written statement.

2. Learned counsel for the petitioner submits that the counsel could not file the written statement as he was engaged in Municipal Election-related work, since his wife was contesting election in Ludhiana. She further contends that written statement is ready and the next date of hearing in Civil Suit No.1638 of 2024 is 03.10.2025 and the petitioner undertakes to file the written statement on 03.10.2025.



3. She relied upon the judgments passed by the Hon'ble Supreme Court in *Rafiq & Anr. v. Munshilal & Anr., (1981) 2 SCC 788* and *Desh Raj v. Balkishan (dead) through proposed LR Ms. Rohini, (2020) 2 SCC 708* to contend that Order VIII Rule 1 CPC, in non-commercial suits, is directory and the Court retains inherent discretion to condone delay.

4. On 03.09.2025, notice was issued in the present revision petition. Thereafter, the matter was adjourned for different dates. Today, Mr. Manuj Nagrath, Advocate, appears on behalf of respondents.

5. A perusal of the file shows that there is no vakalatnama/power of attorney placed on record by Mr. Manuj Nagrath, Advocate.

6. Per contra, Mr. Manuj Nagrath, Advocate contends that sufficient opportunities was granted to the petitioner to file the written statement; yet, despite opportunities, same was not filed. He further contends that the statutory period has elapsed and no satisfactory explanation for the delay is forthcoming. He relied upon the judgment passed by the Hon'ble Supreme Court in *Dr. J.J. Merchant v. Shrinath Chaturvedi, 2003 (1) BCR 24* to contend that timelines given under CPC deserve strict adherence and, therefore, he prays that present revision petition be dismissed.

7. A perusal of impugned order shows that the defence of the petitioner was struck off on the premise that the matter was lingering for filing of the written statement since 01.05.2024, and that the statutory period prescribed for filing of the written statement had already elapsed. A perusal of file shows that it was owing to the lapse on the part of counsel the written statement could not be filed.

8. It is now well settled propositions of law that for the wrong or inaction of counsel, the litigant should not suffer. Reliance in this regard can



be placed on the judgment of the Hon'ble Supreme Court in **Ram Kumar Gupta and Others v. Har Prasad and Another, (2010) 1 SCC 391**, wherein the Court categorically held that a party should not be made to suffer for the lapses attributable to its counsel.

9. Furthermore, recently the Hon'ble Supreme Court in **Ashok Kumar v. New India Assurance Co. Ltd., 2023 LiveLaw (SC) 587**, has reiterated the same principle and has held to the same effect.

10. Coming to the judgment relied upon by learned counsel for the respondents in **Dr. J.J. Merchant v. Shrinath Chaturvedi (supra)**, the same was rendered by the Hon'ble Supreme Court in the context of the Consumer Protection Act, which specifically provides for expeditious disposal of consumer disputes. The ratio of the said judgment, therefore, is not applicable to the facts of the present case.

11. Now, coming to the judgment relied upon by learned counsel for the petitioner passed in **Desh Raj v. Balkishan (dead) through proposed LR Ms. Rohini, (2020) 2 SCC 708**, Hon'ble Court has held that in relation to the timeline for filing a written statement in non-commercial disputes, the principles laid down in a series of earlier judgments, continue to apply. Further that the unamended Order VIII Rule 1 CPC is directory in nature and does not take away the inherent discretion of the courts to condone delays where the circumstances so warrant.

12. The relevant extract of **Desh Raj (supra)** is reproduced as under:-

*“12. The judgment of Oku Tech relied upon by the learned Single Judge is no doubt good law, as recently upheld by this Court in SCG Contracts (India) (P) Ltd. v. K.S. Chamankar Infrastructure (P) Ltd.4 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 8 Rule 1 CPC.*

*13. As regards the timeline 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 & Co.<sup>5</sup> holds the field. The unamended Order 8 Rule 1 CPC continues to be directory and does not do away with the inherent discretion of courts to condone certain delays.”*

13. In view of the above discussion, this Court is of considered view that in the interest of justice, the petitioner should be granted one last effective opportunity to file the written statement, subject to payment of costs of Rs. 5,000/-.

14. In view of the same, the present revision petition is allowed. Order dated 16.12.2024 is set aside to the extent of striking off the defence of defendant No.2.

15. The petitioner is granted one last effective opportunity to file written statement on the next date of hearing i.e. 03.10.2025 along with receipt of payment of cost of Rs.5,000/-, deposited with the Punjab and Haryana High Court Employees Welfare Association, Account No. 37167209613, IFSC Code: SBIN0050306, State Bank of India, High Court Branch, Chandigarh.

16. Learned Civil Judge (Junior Division), Ludhiana, is hereby directed to permit the petitioner to file written statement on the next date of



hearing. In the event that the hearing scheduled for 03.10.2025 does not take place for any reason and matter is adjourned, the petitioner shall be granted one effective opportunity to file his written statement on the next date of hearing.

**September 26<sup>th</sup>, 2025**

*Ayub*

**(SUDEEPTI SHARMA)  
JUDGE**

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