



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

(125)

CR-5333-2025

Date of Decision:-11.08.2025

MAHENDER

... Appellant

Versus

NARESH KUMAR AND OTHERS

... Respondents

-.-

**CORAM: HON'BLE MR. JUSTICE VIRINDER AGGARWAL**

Present:- Mr. Arjun Atri, Advocate,  
for the petitioner.

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**VIRINDER AGGARWAL, J.** (Oral)

1. Petitioner filed this revision petition under Article 227 of the Constitution of India assailing the order dated 13.05.2025, vide which, the learned Additional Civil Judge, Senior Division, Hathin has struck off the defence of respondents No.2 to 4. Revisionist assails the order on the grounds that respondent No.1/plaintiff gave an affidavit on 18<sup>th</sup> of June, 2024 with regard to respondent No.2/defendant No.1 that he had already received his share and does not want to pursue any legal action against her and he is bound to withdraw the suit, so petitioner was under impression that the matter was sorted out between the parties i.e. plaintiff and defendant No.1 and that there is no need to file the reply. Petitioner prays for one opportunity to file written statement.

2. Record perused.

3. The relevant portion of the impugned order reads as under:-

*“Today the case was fixed for filing written statement and reply to injunction application on behalf of defendants and payment of cost of Rs.1,000/- each. Cost not paid.*

*Written statement and reply to injunction application on behalf of defendants not filed. As per*



*amended provision of the CPC, written statement and reply to injunction application can be allowed to be filed by the defendants within the period of ninety days from the date of service of summons on them. Since, the said period of ninety days has expired from the date of service of the summons on the defendants and no written statement and reply to injunction application have been filed, therefore, defence of this defendants stands struck off."*

4. Before dealing with the arguments, the orders produced in para 4 of the revision petition are required to be seen which reads as under:-

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.  
None for the defendants no. 1 & 2.  
Sh. Mukesh Kumar, Advocate for the defendant no.4.  
Ld. GP for the defendant no. 5.*

*Notice issued to defendants no. 1 & 2 received back executed through postal receipts. Case called several times since morning. It is already 3:45 PM. Further wait not justified. Hence, defendants no. 1 & 2 are hereby proceeded ex-parte.*

*Power of attorney on behalf of defendant no. 4 has been filed. Ld. GP appeared on behalf of defendant no. 5. Now to come upon 20.05.2024 for filing written statement and reply to injunction application on behalf of defendants no. 4 & 5. Notice to the defendant no. 3 be issued for said date.*

*(Pawan Kumar)  
ACJ(SD) cum SDJM, Hathin  
(UID No. HR0332)  
07.05.2024*

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.  
Sh. Mukesh Kumar, Advocate for the defendants no. 1 to 3.  
Sh. Mukesh Kumar, Advocate for the defendant no. 4.  
Ld. GP for the defendant no. 5.*

*File perused. Inadvertently there is mistake in the last zimni order dated 04.01.2022. Same is being the inadvertent typographical mistake stands to be rectified and case is fixed for filing Lrs of defendant no. 1. Order be corrected accordingly.*

*Power of attorney on behalf of defendants no. 1 to 3 have been filed. Written statement and reply to injunction*



*application on behalf of defendants not filed. Adjournment sought. Heard and allowed. Now to come upon 09.07.2024 for filing written statement and reply to injunction application on behalf of defendants.*

*(Pawan Kumar)  
ACJ(SD) cum SDJM, Hathin  
(UID No. HR0332)  
20.05.2024*

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.  
Sh. Mukesh Kumar, Advocate for defendants no. 1  
to 3.  
Sh. Mukesh Kumar, Advocate for the defendant no.  
4.  
Ld. GP for the defendant no. 5.*

*Written statement and reply to injunction application on behalf of defendants not filed. Adjournment sought. Heard and allowed. Now to come upon 04.09.2024 for filing written statement and reply to injunction application on behalf of defendants.*

*(Pawan Kumar)  
ACJ(SD) cum SDJM, Hathin  
(UID No. HR0332)  
09.07.2024"*

*"Present: Sh. Subash Rawat, Proxy counsel for the  
plaintiff.  
Sh. Warish Khan, Proxy counsel for the  
defendant no. 1 to 4  
Ld. GP for the defendant no. 5.*

*Work suspended by Bar. Written statement and reply to injunction application on behalf of defendants not filed. Adjournment requested. Heard. Now to come upon 20.11.2024 for filing written statement and reply to injunction application on behalf of defendants.*

*(Garima Yadav)  
ACJ(SD) cum SDJM, Hathin  
(UID No. HR0413)  
04.09.2024"*

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.  
Sh. Mukesh kumar, Advocate for defendants  
no.1 to 3.  
Sh. Mukesh Kumar, Advocate for the  
defendant no.4.  
Ld. GP for the defendant no.5.*



*Case received by transfer. It be checked and registered. Written statement on behalf of defendants not filed. Adjournment sought. Heard and allowed. Now to come upon 28.01.2025 for filing written statement on behalf of defendants. No further opportunity for filing written-statement otherwise defence struck off.*

*Aparna Choudhary  
CJJD/Hathin  
UID-0436  
20.11.2024"*

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.  
Sh. Mukesh kumar, Advocate for defendants  
no.1 to 3.  
Sh. Mukesh Kumar, Advocate for the  
defendant no.4.  
Ld. GP for the defendant no.5.*

*Written statement on behalf of defendants not filed. Adjournment sought. Heard and allowed. Now to come upon 05.03.2025 for filing written statement on behalf of defendants. No further opportunity for filing written-statement otherwise defence struck off.*

*Aparna Choudhary  
CJJD/Hathin  
UID-0436  
28.01.2025"*

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.  
Sh. Mukesh kumar, Advocate for defendants  
no.1 to 3.  
Sh. Mukesh Kumar, Advocate for the  
defendant no.4.  
Ld. GP for the defendant no.5.*

*Written statement on behalf of defendants not filed. Adjournment sought. Heard and allowed. Now to come upon 23.04.2025 for filing written statement on behalf of defendants. Subject to payment of cost of Rs. 500/- each be deposited in SDLSA, Hathin, by the defendants and it is made clear in the event of non filing of the written statement on the next date of hearing, the defence would be struck off.*

*Aparna Choudhary  
CJ(JD)/Hathin.  
UID-0436  
05.03.2025*

*"Present: Sh. B.S. Gautam, Advocate for the plaintiff.*



*Sh. Mukesh kumar, Advocate for defendants  
no.1 to 3.*

*Sh. Mukesh Kumar, Advocate for the  
defendant no.4.*

*Ld. GP for the defendant no.5.*

*Cost of Rs. 500/- each not paid. Written statement  
on behalf of defendants not filed. Adjournment sought.  
Heard and allowed. Now to come upon 13.05.2025 for  
filing written statement on behalf of defendants. Subject to  
payment of cost of Rs. 500/- each be deposited in SDLSA,  
Hathin, by the defendants and it is made clear in the event  
of non filing of the written statement on the next date of  
hearing, the defence would be struck off.*

*Aparna Choudhary  
CJ(JD)/Hathin.  
UID-0436  
23.04.2025"*

5. The reproduction of this record clearly shows that the petitioners put in appearance on 07.05.2024 and on 13.05.2025 after grant of adjournments for more than one year, the defence was struck off by the Court. As per the provisions of Order 8 Rule 1 of CPC, written statement is required to be filed within a period of 30 days from the date of service, which can be extended up to the period of 90 days on reasons being shown and judicial precedents are to the effect that the period of even 90 days is not mandatory period rather it is a directory period. Defendants can be granted opportunity to file written statement or to deliver defence even after expiry of 90 days from the date of service subject to defendants having shown reason beyond the control of defendants but in the present case, the Court was magnanimous and has granted indulgence to the revision petitioners for a period of more than one year after they put in appearance and no ground for non-filing of written statement, which was beyond their control has been pleaded in the revision petition also. There has to be an end to the litigation and the litigation cannot be allowed to be dragged for infinity. Moreover, the impugned order was passed for non-deposit of cost,



subject to which adjournment was granted, so, there is no jurisdictional error committed by the learned Civil Judge and finding no merits in revision petition.

6. Accordingly, the revision petition is dismissed. Pending miscellaneous application(s), if any, are also disposed of accordingly.

11.08.2025  
*S. Pathania*

(VIRINDER AGGARWAL)  
JUDGE

|                              |          |
|------------------------------|----------|
| Whether reasoned / speaking? | Yes / No |
| Whether reportable?          | Yes / No |