



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

128

CR-4940-2025

Date of decision: 30.07.2025

Jaswinder Kumari

...Petitioner

Versus

Kulwinder Kumar

...Respondent

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Abhay Gupta, Advocate for the petitioner.

SUDEEPTI SHARMA, J. (ORAL)

1. Present petition has been preferred against the order dated 22.05.2025 passed by learned Civil Judge (Junior Division), Phagwara, whereby the application filed by the petitioner/defendant for recalling of order dated 06.11.2023 whereby defence of the defendant was struck off, has been dismissed.

2. Learned counsel for the petitioner submits that the petitioner filed a Civil Revision before this Court against the order vide which her application filed under Order 7 Rule 11 CPC was dismissed and the petitioner could not file written statement as she was waiting for the decision of the above civil revision, but the Ld. Trial Court without decision of her civil revision, opted to struck off the defence of the petitioner. He, therefore, prays that one last opportunity be granted to the petitioner to file written statement on the date fixed before the trial Court. He further submits that the next date of hearing before the learned trial Court is 31.07.2025. Hence, he prays that the petition be allowed.



3. I have heard learned counsel for the petitioner and perused the whole file of this case with his able assistance.

4. The petitioner could not file the written statement due to pendency of Civil Revision which was dismissed for non prosecution. This Court is of the view that a *lis* should be decided on merit rather on technicalities. Pleadings of both the parties would obviously help the Court to decide the *lis* on merit. Therefore, justice demands that one opportunity is required to be granted the petitioner/defendant to file written statement for just and proper decision of the case.

5. Hence, the present revision petition stands allowed and order dated 22.05.2025 passed by learned Civil Judge (Junior Division), Phagwara, is set aside to the extent of striking off defence of the petitioner. The petitioner is granted one last effective opportunity to file written statement on the date fixed before the learned trial Court, subject to payment of Rs.5,000/- as costs to be deposited by the petitioner with the treasure of Punjab and Haryana High Court Bar Association, which shall be utilized for construction/renovation of Women Bar Room, Punjab and Haryana High Court, Chandigarh. The learned trial Court is directed to accept the written statement filed by the petitioner on the next date fixed after 31.07.2025.

30.07.2025

Yogesh

(SUDEEPTI SHARMA)
JUDGE

Whether speaking/reasoned:-
Whether reportable:-

Yes/No
Yes/No