



CR-5998-2025 (O&M)

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

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**CR-5998-2025 (O&M)
Decided on :- 01.09.2025**

Man Singh and Another

....Petitioners

VERSUS

Rekha and Another

....Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. G.C.Shahpuri, Advocate for the petitioners.

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MANDEEP PANNU J.

1. The present revision petition has been preferred against the impugned order dated 11.04.2025 passed by the learned Civil Judge (Junior Division), Hodal, District Palwal, whereby the defence of the defendants-petitioners was struck off and they have been precluded from filing the written statement.

2. Learned counsel for the defendants-petitioners would contend that the respondents-plaintiffs preferred a suit for declaration and permanent injunction regarding the agricultural land mentioned in the plaint. In the said suit, upon notice on 17.01.2025, the defendants-petitioners have filed power of attorney and the matter was adjourned to 18.01.2025, on which date they sought time to file written statement. The matter was adjourned to 24.02.2025 for filing of written statement. However, as the Presiding Officer was to go on leave, the matter was taken up on 21.02.2025, instead of 24.02.2025 and the matter was adjourned to 21.03.2025. Learned counsel fairly conceded that despite the numerous opportunities, the defendants-petitioners have failed to file the written statement, but they never had any intention not to file the written statement. He further submits that if the



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defendants-petitioners be given one opportunity, they would file the written statement and they are willing to compensate the plaintiff-respondent by ways of costs.

3. I have heard learned counsel for the petitioners and gone through the record of the case in hand.

4. The defence of the defendants/petitioners in the present case has been struck-off on the ground that the written statement was not filed and the cost was not paid.

5. Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D) through proposed LR Ms. Rohini [(2020) RCR (Civil) 807]** had also examined the timeline for filing of written statement and laid down that in a non-commercial dispute matter, the unamended provision of Order VIII Rule 1 CPC continues to be directory and does not do away with the inherent discretion of the Courts to condone delay.

6. In view of above and in view of the settled law that the provision of Order VIII Rule 1 CPC, in the case of non-commercial suits, is only directory in nature and not mandatory, I am of the considered opinion that ends of justice would be adequately met if one opportunity is granted to the defendants/petitioners for filing their written statement on the date to be fixed before the learned trial Court. No prejudice would be caused to the other side in case the suit is decided on merits, after affording due opportunity to contest the same. It is settled law that the procedural law is always subservient to and is in aid of justice.

7. Resultantly, the present revision petition is allowed. The impugned order dated 11.04.2025 passed by the learned trial Court is set aside and one effective opportunity is granted to the defendants/petitioners to file their written

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statement on or before the date fixed before the learned trial Court subject to payment of Rs.8,000/- as costs to be paid to the plaintiffs-respondents. It is made clear that failing to file the written statement in terms of this order, the petitioners would not be entitled to any further opportunity for the said purpose and the trial Court would proceed with the matter without this order having any bearing on trial.

8. The revision petition is disposed of in the aforesaid terms.

9. Pending application(s), if any, also stand disposed of.

September 01, 2025
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(MANDEEP PANNU)
JUDGE

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No