

**CR-6265-2025 (O&M)**

-1-

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

-.-

**CR-6265-2025 (O&M)
Decided on :- 09.09.2025**

Satish Kumar and Others

....Petitioners

VERSUS

Krishan Lal and Others

...Respondents

CORAM : HON'BLE MS. JUSTICE MANDEEP PANNU

Present: Mr. Nikhil Saini, Advocate for the petitioners.

-.-

MANDEEP PANNU J.

1. The present revision petition has been preferred against the impugned order dated 07.05.2025 passed by the learned Additional Civil Judge (Senior Division), Sonapat, whereby the defence of the petitioners/defendant Nos.1 to 3 was struck off and they have been precluded from filing the written statement.
2. Learned counsel for the petitioners/defendant Nos. 1 to 3 would contend that the respondent No.1-plaintiff preferred a suit for permanent injunction under Section 38 of the Specific Relief Act, 1963. In the said suit, upon notice on 29.05.2023, petitioners/defendants No.1 to 3 had put in appearance on 12.07.2023. Learned counsel would further contend that from the very first date of issuing notice to the defendants to the date now fixed before the learned trial Court, the case is pending for service of defendant No.19 as the plaintiff is not supplying his correct/complete address. However, he fairly conceded that despite the numerous opportunities, the petitioners/defendants No.1 to 3 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 petitioners/defendants No.1 to 3 be given one



CR-6265-2025 (O&M)

-2-

opportunity, they would file the written statement and they are willing to compensate the respondent No.1-plaintiff 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 despite numerous opportunities written statement was not filed.

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, in view of law laid down above and keeping in view the contention of learned counsel for the petitioners, the present revision petition is allowed in the interest of justice. The impugned order dated 07.05.2025 passed by the learned trial Court is set aside and one effective opportunity is granted to the



CR-6265-2025 (O&M)

-3-

petitioners/defendants No.1 to 3 to file their written statement on or before the date fixed before the learned trial Court subject to payment of Rs.25,000/- as costs to be paid jointly by the petitioners to respondent No.1 – plaintiff before the learned trial Court. 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 allowed in the aforesaid terms.
9. Pending application(s), if any, also stand disposed of.

September 09, 2025
tripti

(MANDEEP PANNU)
JUDGE

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