



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

**Civil Revision No. 3006 of 2019 (O&M)
Date of Decision: 12.08.2025**

Harbhajan Kaur and others

..... Petitioners

Versus

Kuldeep Kaur and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Yagsimant Attri, Advocate
for the petitioners-defendant Nos. 1 to 3.

Mr. Devinder Rajput, Advocate
for contesting respondent No. 1-plaintiff.

HARKESH MANUJA, J. (ORAL)

The petitioners-defendant Nos. 1 to 3, by way of present revision petition filed under Article 227 of the Constitution of India, seek setting aside of an order dated 28.03.2019 (Annexure P-4) passed by learned Civil Judge (Junior Division), Patiala (**for short “trial Court”**), whereby their defence was ordered to be struck off.

[2] Facts leading to the present case are that respondent No.1-plaintiff (Kuldeep Kaur) filed a suit for declaration, besides seeking relief of permanent injunction restraining the petitioners-defendant Nos.1 to 3 from alienating the suit land measuring 6 Bighas 19 Biswas comprised in Khasra No. 694, out of which 1 Bighas 0 Biswas, situated at Sheesh Mehal Colony, Patiala. Upon notice, the petitioners appeared before the trial Court through their General Power of Attorney (GPA)

on 21.07.2018 (as averred in para-2 of the petition); however, despite having been granted sufficient (ten) opportunity, no written statement was filed and resultantly, their defence was ordered to be struck off by the trial Court vide order dated 28.03.2019 (Annexure P-3).

[3] Impugning the aforesaid order dated 28.03.2019 passed by the trial Court, learned counsel for the petitioners submits that the petitioners were not able to bear the expenses of Advocate while submitting application dated 23.10.2018 (Annexure P-4) for giving GPA to one Tarlochan Singh to defend their case; however, the presence of Advocate was being marked. He further submits that the GPA of petitioners was not aware with regard to passing of the orders, whereby the costs was imposed and later, vide impugned order dated 28.03.2019, the defence of petitioners was struck off; thus, they could not file the written statement in time. He further submits that in the absence of any defence being put-forth by way of filing written statement, the petitioners will not be able to defend the suit in an effective manner which definitely will cause serious prejudice to their rights.

[4] I have heard learned counsel for the parties and considered the submissions made on behalf of the petitioners.

[5] In the humble opinion of this Court, I find that in case, the impugned order is allowed to stand and the petitioners are deprived of their rights to file written statement, they will not be able to put-forth their defence to the case set up by the respondent-plaintiff in the suit.

Though, there appears to be lack of due diligence on the part of petitioners while contesting the suit, however, considering the fact that ever since the passing of impugned order, the proceedings in the suit have not moved further, as such, it would be in the interest of justice to grant one effective opportunity to the petitioners, so as to file written statement in order to protect their substantial rights involved in the suit.

[6] Even the Hon'ble Supreme Court in "***Kailash Vs. Nanhku and ors.***", 2005 (2) RCR (Civil) 379, while considering the provisions of Order VIII Rule 1 CPC, has held that the same being part of procedural law are thus directory in nature. Still further, keeping in view the substantial justice, the Hon'ble Supreme Court under somewhat similar circumstances, in "***Siddalingayya Vs. Gurulingappa and ors.***", 2018 (1) RCR (Civil) 543, upheld the opportunity of filing written statement granted by the High Court. Even otherwise, upholding of the impugned order may cause serious prejudice to the rights of petitioners as they would not be able to contest the case set up by the respondent-plaintiff.

[7] Accordingly by adopting a pragmatic approach; rather than being hyper-technical, the impugned order dated 28.03.2019 passed by the trial Court, is ordered to be modified **while granting one effective opportunity to the petitioners** so as to file their written statement on the date fixed before the trial Court, i.e. 20.09.2025.

[8] The above liberty granted to the petitioners is, however, subject to payment of costs of Rs. 10,000/- which shall be deposited by

the petitioners with the trial Court, to be disbursed in favour of the respondent-plaintiff.

[9] **Disposed off** accordingly.

[10] Pending miscellaneous application(s), if any, shall also stand disposed off.

August 12, 2025
'dk kamra'

(HARKESH MANUJA)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>