



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

326

CR-2406-2025 (O&M)

Date of Decision : 22.05.2025

RANJIT SINGH

... Petitioner

VERSUS

NAVNEET KAUR AND OTHERS

... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amandeep Singh, Advocate for the petitioner.

Mr. Ankit Kharbanda, Advocate for respondent No.1.

ALKA SARIN, J. (ORAL)

1. Challenge in the present revision petition is to the order dated 14.01.2025 passed by the learned Civil Judge (Junior Division) vide which the defence of defendant No.3-petitioner was struck off for non-filing of the written statement.

2. Learned counsel for defendant No.3-petitioner would contend that given one opportunity the defendant No.3-petitioner would file his written statement and that the defendant No.3-petitioner is also willing to compensate the plaintiff-respondent No.1 by way of costs.

3. *Per contra*, learned counsel for the plaintiff-respondent No.1 would contend that despite 5 opportunities being granted to the defendant No.3-petitioner, he failed to file written statement and hence his defence was rightly struck off and no fault can be found with the impugned order.

4. Heard.

5. The Hon'ble Supreme Court in the case of **Desh Raj vs. Balkishan (D) through proposed LR Ms. Rohini [(2020) RCR (Civil) 807]** has held as under :

“ANALYSIS & CONCLUSION

11. At the outset, it must be noted that the Commercial Courts Act, 2015 through Section 16 has amended the CPC in its application to commercial disputes to provide as follows:

“16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.-

(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule.

(2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a specified value.

(3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908, by the State Government is in conflict with the provisions of

the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail.”

12. Hence, it is clear that post coming into force of the aforesaid Act, there are two regimes of civil procedure. Whereas commercial disputes [as defined under Section 2(c) of the Commercial Courts Act, 2015] are governed by the CPC as amended by Section 16 of the said Act; all other noncommercial disputes fall within the ambit of the unamended (or original) provisions of CPC.

13. The judgment of Oku Tech (supra) relied upon the learned Single Judge is no doubt good law, as recently upheld by this Court in SCG Contracts India Pvt. Ltd. v. KS Chamankar Infrastructure Pvt. Ltd., AIR 2019 SC 2691, but its ratio concerning the mandatory nature of the timeline prescribed for filing of written statement and the lack of discretion with Courts to condone any delay is applicable only to commercial disputes, as the judgment was undoubtedly rendered in the context of a commercial dispute qua the amended Order VIII Rule 1 CPC.

14. As regard the time-line for filing of written statement in a non commercial dispute, the observations of this

Court in a catena of decisions, most recently in Atcom Technologies Ltd. v. Y.A. Chunawala and Co., (2018) 6 SCC 639 holds the field. Unamended Order VIII Rule I, CPC continues to be directory and does not do away with the inherent discretion of Courts to condone certain delays.”

6. It is trite that the provisions of Order VIII Rule 1 CPC have been held to be directory in nature and not mandatory in the case of non-commercial suit. In the present case the suit is for separate possession by way of partition and in case the defendant No.3-petitioner is not permitted to file his written statement, great injustice would be occasioned to him. In view thereof and in view of the law laid down by the Hon'ble Supreme Court in the case of **Desh Raj** (supra), one opportunity is granted to the defendant No.3-petitioner to file his written statement subject to payment of ₹30,000 (rupees thirty thousand) as costs to be paid to the plaintiff-respondent No.1. The payment of costs shall be a condition precedent for filing of the written statement.

7. Petition stands disposed off in the above terms. Pending applications, if any, also stand disposed off.

22.05.2025
Aman Jain

(ALKA SARIN)
JUDGE

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