

(2010) 10 P&H CK 0315

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Revision No. 7100 of 2010

Jagsir Singh

APPELLANT

Vs

Ashwani Kumar and Others

RESPONDENT

Date of Decision: Oct. 29, 2010

Acts Referred:

- Civil Procedure Code, 1908 (CPC) - Order 8 Rule 1

Hon'ble Judges: Alok Singh, J

Bench: Single Bench

Judgement

Alok Singh, J.

Present petition is filed challenging the order dated 19.07.2010 passed by the learned Civil Judge (Junior Division), Ludhiana, whereby defence of the petitioner - defendant No. 1 was directed to be struck off on account of non-filing of the written statement within stipulated period.

2. Learned Counsel for the petitioner - defendant No. 1 states that written statement is ready and shall be filed within such time as fixed by this Court. He further states that written statement could not be filed earlier because case was transferred from one Court to another and defendants No. 2 to 5 were not served. He further states that defendant No. 1 is under confusion that written statement could be filed after the service on defendants No. 2 to 5.

3. In the opinion of this Court, present petition can be disposed of at the admission stage without any notice to the respondents just to avoid undue delay in the disposal of the suit.

4. Hon'ble Apex Court in the matter of [Kailash Vs. Nanhku and Others](#), has held that provision of Order 8 Rule 1 C.P.C. are not mandatory rather directory in nature and on sufficient cause being shown, defendant can be permitted to file written statement after expiry of 90 days.

5. Keeping in mind, the golden rule that none of the party should be given walk over and lis between the parties, as far as possible, should be decided at its own merit after giving sufficient opportunities to both the parties to place on record pleadings, evidence and other materials required for fair adjudication of the case, I direct that defendant No. 1 shall file written statement before the learned Trial Court on or before 30.11.2010 with advance copy to the plaintiffs. Defendant No. 1-petitioner herein shall pay Rs. 5,000/- as costs to the plaintiffs on or before the filing of the written statement. It is made clear that no further time shall be granted to defendant No. 1. Thereafter, learned Trial Court shall proceed in accordance with law.

6. Petition shall stand disposed of accordingly.