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

CR-2561-2021

Date of decision : 13.05.2026

Municipal Corporation Gurugram

..... Petitioner

versus

Brijlal & ors.

..... Respondents

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. Ritik Mohindroo, Advocate
Mr. Vishal Garg, Advocate
for the petitioner.

None for the respondents.

PANKAJ JAIN, J. (ORAL)

1 The present revision petition is directed against the order dated 18.12.2019 (Annexure P-1) passed by the Civil Judge (Senior Division), Gurugram, whereby the defence of the petitioner has been ordered to be struck off for not having filed the written statement within 90 days, as prescribed under Order VIII Rule 1 CPC.

2 Counsel for the petitioner submits that the petitioner undertakes to file written statement on the next date of hearing.

3 From the record, it is discernible that the suit was instituted in the year 2019. The present petitioner, who was arrayed as defendant No.2, appeared through its counsel and filed a memo of appearance on 10.07.2019. The matter was adjourned to 20.08.2019. Thereafter to 22.10.2019 and then to 18.12.2019 and thereafter it was adjourned to 21.03.2020. In March



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2020, a health emergency in the State of Haryana was declared owing to COVID-19. The present revision petition was filed in the year 2021 and has been pending before this Court for the last 5 years. The provisions under Order VIII Rule 1 CPC have been interpreted by the Supreme Court in ***Kailash Vs. Nanhku & ors., 2005 AIR Supreme Court 2441*** observing as under :-

“(iv) The purpose of providing the time schedule for filing the written statement under Order VIII, Rule 1 of CPC is to expedite and not to scuttle the hearing. The provision spells out a disability on the defendant. It does not impose an embargo on the power of the Court to extend the time. Though, the language of the proviso to Rule 1 of Order VIII of the CPC is couched in negative form, it does not specify any penal consequences flowing from the noncompliance. The provision being in the domain of the Procedural Law, it has to be held directory and not mandatory. The power of the Court to extend time for filing the written statement beyond the time schedule provided by Order VIII, Rule 1 of the CPC is not completely taken away.

(v) Though Order VIII, Rule 1 of the CPC is a part of Procedural Law and hence directory, keeping in view the need for expeditious trial of civil causes which persuaded the Parliament to enact the provision in its present form, it is held that ordinarily the time schedule contained in the provision is to be followed as a rule and departure therefrom would be by way of exception. A prayer for extension of time made by the defendant shall not be granted just as a matter of routine and merely for asking, more so when the period of 90 days has expired. Extension of time may be allowed by way of an exception, for reasons to be assigned by the defendant and also be placed on record in writing, howsoever briefly, by the Court on its being satisfied. Extension of time may be allowed if it was



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needed to be given for the circumstances which are exceptional, occasioned by reasons beyond the control of the defendant and grave injustice would be occasioned if the time was not extended. Costs may be imposed and affidavit or documents in support of the grounds pleaded by the defendant for extension of time may be demanded, depending on the facts and circumstances of a given case.”

4 Further Supreme Court in ***Sambhaji & ors. Vs. Gangabai & ors., 2009 (1) RCR (Civil) 383*** observed as under :-

“13. It is also to be noted that though the power of the court under the proviso appended to Rule 1 of Order 8 is circumscribed by the words "shall not be later than ninety days" but the consequences flowing from non- extension of time are not specifically provided for though they may be read by necessary implication. Merely, because a provision of law is couched in a negative language implying mandatory character, the same is not without exceptions. The courts, when called upon to interpret the nature of the provision, may, keeping in view the entire context in which the provision came to be enacted, hold the same to be directory though worded in the negative form.”

5 In view thereof, this Court finds that it will be in the interest of justice that the petitioner is allowed to contest the suit and its defence comes on record. Accordingly, the order dated 18.12.2019 passed by the Civil Judge (Junior Division), Gurugram is modified to the extent that the petitioner is granted one last opportunity to file the written statement, subject to the undertaking given by the counsel that the written statement shall be



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filed on the next date of hearing, subject to payment of Rs.5000/- cost to be paid to the plaintiff.

6 In case the petitioner fails to file the written statement after availing an opportunity as ordered herein above, the impugned order shall come in vogue and no further opportunity will be granted to the petitioner.

7 Petition stands disposed off.

13.05.2026

Pooja Sharma-I

**(PANKAJ JAIN)
JUDGE**

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No