

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT
CHANDIGARH

C.R. No.4131 of 2015

Date of Decision.06.07.2015

M/s Uddar Gagan Properties Pvt. Ltd. and othersPetitioners

Versus

Ram Lal and othersRespondents

Present: Mr. R.S. Kataria, Advocate
for the petitioners.

CORAM:HON'BLE MR. JUSTICE K. KANNAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest?

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K. KANNAN J. (ORAL)

1. There is no justification for the petitioner to apply to this Court against the order striking off his defence. Admittedly, the petitioner has not filed a written statement within 90 days as contemplated under Order 8 Rule 1 CPC and according to him, he believed that his application under Section 10 CPC will take care of his right not to file written statement. I would find that there would be no basis for such a belief, for, a stay of trial of suit has nothing to do with obligation to file the written statement.

2. Be it as it may, it has been held by the decision of the Supreme Court in Salem Bar Association, Tamil Nadu Vs. Union of India (2005) 6 SCC 344 that the period of 90 days for filing written statement as stipulated under Order 8 Rule 1 CPC is only directory and not mandatory. If there are sufficient reasons given for not filing the written statement within the time stipulated, the Court will consider the same and take appropriate decision. The defendant will approach

the very same Court which has passed the order striking off the defence. The petitioner is at liberty to apply to the trial Court with application to extend the time for filing written statement and recalling the order that was already passed striking off the defence and submit the written statement along with the application. The Court will entertain the same, serve the notice of application to the opposite party and take an independent decision on the basis of facts set forth for not filing the written statement. No intervention is made at this time but the petitioner will be a liberty to approach the trial Court for appropriate orders in the manner delineated above.

3. The revision petition is disposed of with the above observations.

(K. KANNAN)
JUDGE

July 06, 2015
Pankaj*