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

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Date of decision: 26.08.2026

Sandeep Kumar

....Petitioner

Vs.

Satpal Singh

....Respondent

CORAM : HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Mohit Sharma, Advocate
for the petitioner.

HARSH BUNGER J. (Oral)

1 The present civil revision petition has been filed under Article 227 of the Constitution of India for setting aside order dated 10.07.2026 (Annexure P-6) passed by learned trial Court, whereby the defence of the petitioner-defendant (Sandeep Kumar) has been struck off on account of non-filing of written statement.

2. Briefly, respondent-plaintiff (Satpal Singh) filed a civil suit seeking specific performance of an agreement to sell dated 10.12.2024 in respect of the suit property, allegedly executed by the petitioner-defendant in favour of the respondent-plaintiff for a total sale consideration of Rs.13,75,000/-, out of which Rs.7,70,000/- was paid as earnest money. It was alleged that the petitioner failed to appear for execution of the sale deed on the agreed date, i.e. 30.06.2025, despite the respondent being ready and willing to perform his part of the contract.

3. Notice of the suit was issued to the petitioner and an ex-parte ad-interim injunction was granted vide order dated 21.07.2025 (Annexure



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P-1) restraining the petitioner from alienating the suit property. On the report of service, the petitioner was proceeded against ex-parte vide order dated 31.07.2025 (Annexure P-2); however the petitioner asserts that summons were never served upon him and that respondent/plaintiff procured false report of service.

4. The petitioner thereafter engaged counsel, who appeared on 10.09.2025 and filed an application for setting aside the ex-parte order. The said application was allowed vide order dated 24.09.2025 (Annexure P-4), subject to payment of costs of Rs.500/-, and the matter was fixed for filing of written statement.

5. It appears that despite several opportunities granted vide zimni orders dated 23.10.2025, 20.11.2025, 18.12.2025, 05.02.2026, 20.03.2026 and 24.04.2026 (Annexure P-5), the petitioner neither deposited the costs nor filed the written statement.

6. Consequently, learned trial Court, on finding that the statutory period of 90 days for filing the written statement had expired, struck off the defence of the petitioner vide impugned order dated 10.07.2026 (Annexure P-6) and fixed the case for evidence of the plaintiff.

7. Feeling aggrieved against order dated 10.07.2026 (Annexure P-6), the present revision petition has been filed before this Court.

8. Before this court, learned counsel for the petitioner has urged that the written statement could not be filed within the stipulated period on account of the negligence and lapse on the part of the previous counsel, despite the petitioner having supplied all necessary documents, deposited the costs earlier directed, and diligently pursued the case. He further submits



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that the petitioner has a good case on merits and be afforded only one effective opportunity to file the written statement, subject to payment of costs. It is also submitted that provisions of Order 8 Rule 1 are not mandatory but directory in nature.

9. I have heard learned counsel for the petitioner and perused the paper-book with his able assistance.

10. I have also gone through the various zimni orders recorded by learned trial Court as well as the impugned order.

11. Although the reasoning put forth by learned counsel for the petitioner that the written statement could not be filed on account of the negligence of the previous counsel does not, by itself, fully inspire confidence, inasmuch as the petitioner himself is found wanting in diligently pursuing the matter before the learned Trial Court. Clearly the petitioner has been negligent, however, I am also of the view that in case the petitioner is not permitted to file the written statement, the same is likely to cause serious prejudice to him.

12. Furthermore, in **“Shaikh Salim Haji Abdul Khayumsab vs. Kumar & Others”**, 2005 (4) RCR (Civil) 823, Hon'ble Supreme Court, while considering the provision contained in Order 8 Rule 1 of the Code of Civil Procedure, observed as under:-

"Order 8, Rule 1 after the amendment casts an obligation on the defendant to file the written statement within 30 days from the date of service of summons on him and within the extended time falling within 90 days. The provision does not deal with the power of the court and also does not specifically take away the power of the court to take the written statement



on record though filed beyond the time as provided for. Further, the nature of the provision contained in Order 8, Rule 1 is procedural. It is not a part of the substantive law. Substituted Order 8, Rule 1 intends to curb the mischief of unscrupulous defendants adopting dilatory tactics, delaying the disposal of cases causing inconvenience to the plaintiffs and petitioners approaching the court for quick relief and also to the serious inconvenience of the court faced with frequent prayers for adjournments. The object is to expedite the hearing and not to scuttle the same. While justice delayed may amount to justice denied, justice hurried may in some cases amount to justice buried.

All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the Statute, the provisions of the Civil Procedure Code or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice.

*The procedural law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable.- Justice is the goal of jurisprudence - processual, as much as substantive. (See **Sushil Kumar Sen v. State of Bihar**, (1975(1) SCC 774)."*

13. In the aforementioned circumstances, the present civil revision petition is disposed of by setting aside order dated 10.07.2026 (Annexure



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P-6) passed by learned trial Court, with a further direction to the trial Court to grant one effective opportunity to the petitioner to file his written statement, however, the same shall be subject to payment of costs of **Rs.15,000/-** to be deposited with **"Punjab and Haryana High Court Bar Association Lawyers' Family Welfare Fund (Account No.41564846387, S.B.I. High Court Branch)"** within a period of 15 days from today. It is further clarified that learned trial Court shall grant this opportunity to the petitioner to file the written statement only on production of the receipt regarding payment of costs of Rs.15,000/-, as ordered above.

14. It goes without saying that in case the petitioner submits his written statement after deposit of the aforesaid costs, the petitioner would also be entitled to lead his independent evidence on record in support of his stand in the written statement.

14.1 It is further clarified that in case the petitioner does not deposit the costs, as directed, in that eventuality this order shall be of no avail to the petitioner and the order dated 10.07.2026 (Annexure P-6) passed by learned trial Court shall stand restored.

15. All the pending application(s), if any, shall also stand closed.

26.08.2026
Ankit

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No