



IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 5<sup>th</sup> DAY OF MARCH, 2022

BEFORE

HON'BLE MS. JUSTICE JYOTSNA REWAL DUA

CIVIL MISC. PETITION MAIN (ORIGINAL) No.33 of 2022

Between:-

1. SMT. RAMA ALIAS RITA DEVI  
AGE 75 YEARS,  
W/O SH. RANJEET SINGH,  
R/O NAYA BAZAAR,  
OPPOSITE MAIN GATE OF  
NAHAN FOUNDARY, DISTRICT SIRMAUR, HP
2. BHANU,  
AGE 44 YEARS,  
S/O SH. RANJEET SINGH,  
R/O NAYA BAZAAR,  
OPPOSITE MAIN GATE OF  
NAHAN FOUNDARY, DISTRICT SIRMAUR, HP

.....PETITIONERS

(BY SH. KARAN SINGH KANWAR, ADVOCATE)

AND

1. ASHWANI KUMAR,  
S/O LATE SH. SARWAN SINGH,  
AGED 66 YEARS,  
R/O NEAR DELHI GATE, NAHAN,  
DISTRICT SIRMAUR, H.P.
2. SMT. KAMLESH THAKUR,  
W/O LATE SH. ANIL KUMAR,  
AGED 56 YEARS,  
R/O NEAR DELHI GATE, NAHAN,  
DISTRICT SIRMAUR, H.P.
3. KITTY THAKUR,  
D/O LATE SH. ANIL KUMAR,  
AGED 29 YEARS,

**R/O NEAR DELHI GATE, NAHAN,  
DISTRICT SIRMAUR, H.P.**

- 4. RAVISH KUMAR,  
S/O LATE SH. ANIL KUMAR,  
AGED 26 YEARS,  
R/O NEAR DELHI GATE, NAHAN,  
DISTRICT SIRMAUR, H.P.**
- 5. ARUSHI BANSAL,  
AGED 24 YEARS,  
D/O LATE SH. ANIL KUMAR,  
R/O CHOTTA CHOWK, NAHAN,  
DISTRICT SIRMAUR, H.P.  
(W/O SH. AMAN BANSAL,  
S/O SH. PARVEEN KUMAR**

**.....RESPONDENTS/PLAINTIFFS**

- 6. SMT. ARUNA  
W/O LATE SH. KISHAN SINGH,  
S/O SH. RATTAN SINGH,  
R/O NAYA BAZAAR,  
OPPOSITE MAIN GATE OF NAHAN  
FOUNDARY, DISTRICT SIRMAUR, H.P.**
- 7. SANJAY THAKUR ALIAS SANJU,  
S/O SH. KISHAN SINGH,  
S/O SH. RATTAN SINGH,  
R/O NAYA BAZAAR,  
OPPOSITE MAIN GATE OF NAHAN  
FOUNDARY, DISTRICT SIRMAUR, H.P.**
- 8. AMIT THAKUR ALIAS PINTU,  
S/O SH. KISHAN SINGH,  
S/O SH. RATTAN SINGH,  
R/O NAYA BAZAAR,  
OPPOSITE MAIN GATE OF NAHAN  
FOUNDARY, DISTRICT SIRMAUR, H.P.**
- 9. SMT. KRISHNA THAKUR,  
W/O SH. SHER SINGH,  
S/O SH. RATTAN SINGH,  
R/O NAYA BAZAAR,**

**OPPOSITE MAIN GATE OF NAHAN  
BOUNDARY, DISTRICT SIRMAUR, H.P.**

**.....PROFORMA RESPONDENTS/  
DEFENDANTS 3 TO 6**

**(SH. ASHOK K. TYAGI, ADVOCATE,  
FOR R-1 TO R-5)**

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**Whether approved for reporting?<sup>1</sup> Yes.**

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*This petition coming on for admission this day, the  
Court passed the following:*

**ORDER**

Whether notwithstanding the pendency of an application under Order 7 Rule 11 of the Code of Civil Procedure (in short 'CPC') moved by the defendant about two years after the institution of the suit, can he be directed to file written statement as last opportunity, is the point involved in the present petition.

**2. Facts:-**

**2(i).** A civil suit was filed by respondents No.1 to 5 for possession and mandatory injunction on the basis of title against six defendants. The suit was filed in December, 2019. The case status document produced by learned counsel for respondents No.1 to 5 during hearing of the case gives the impression that the defendants were served in the suit by April, 2020. This has not been disputed by

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<sup>1</sup> Whether reporters of print and electronic media may be allowed to see the order?

learned counsel for the petitioners. First date given for filing the written statement as per the case status document was 09.04.2020. The matter was thereafter listed before the learned Trial Court on 19.06.2020, 22.09.2020, 10.11.2020, 06.01.2021 and 22.03.2021 for filing of written statement. The case was thereafter fixed for proper orders on 06.05.2021 and 12.07.2021. Perhaps on account of COVID-19 pandemic, the matter could not be taken up and was fixed on 21.08.2021 for the purpose of service. It was again posted for filing of written statement on 01.11.2021.

**2(ii).** On 01.11.2021, instead of filing the written statement, defendants No.1 and 2 (petitioners herein) moved an application under Order 7 Rule 11 read with Section 151 CPC for rejection of plaint. The rejection was sought on the ground that the suit filed by the plaintiffs was undervalued for the purposes of court fees and jurisdiction. That the plaintiff had deliberately not paid the requisite court fees in terms of Section 7(5)(e) of the Himachal Pradesh Court Fees Act, 1968. It was pleaded that the learned Trial Court lacked pecuniary jurisdiction to entertain and try the suit.

**2(iii).** Vide order dated 01.11.2021, learned Trial Court took cognizance of the Order 7 Rule 11 CPC

application and directed the plaintiffs to file reply to the application. Learned Trial Court also noticed that the written statement had not been filed. The defendants prayed for time to file the written statement. One last opportunity was granted by the learned Trial court to file written statement, failing which the opportunity for filing the written statement was to be closed. The matter was ordered to be next listed for 22.02.2022.

The order dated 01.11.2021, to the extent it grants last opportunity to the defendants to file written statement, failing which they were not to be granted any further opportunity to file the same, has been assailed by defendants No.1 and 2 (petitioners) in the instant petition.

### **3. Contentions:-**

**3(i).** Sh. Karan Singh Kanwar, learned counsel for the petitioners (defendants No.1 and 2), relying upon **(2003) 1 SCC 557**, titled ***Saleem Bhai and others Versus State of Maharashtra & others*** and **(2016) 14 SCC 275**, titled ***R.K. Roja Versus U.S. Rayudu and another***, argued that the learned Trial Court erred in law in directing defendants No.1 and 2 to file written statement before the decision of their application moved under Order 7 Rule 11 CPC. Learned counsel submitted that the question of filing the

written statement would come only after the adjudication of application moved under Order 7 Rule 11 CPC. By granting last opportunity to defendants No.1 and 2, they cannot be compelled to file the written statement during pendency of their Order 7 Rule 11 CPC application. The approach of the learned Trial Court is wholly erroneous and illegal.

**3(ii).** According to Sh. Ashok K. Tyagi, learned counsel for respondents No.1 to 5 (plaintiffs), defendants No.1 and 2 had been unnecessarily dragging the litigation. They had not opted to file the written statement even after grant of umpteenth number of opportunities during the last about two years. Under the pretext of filing the application under Order 7 Rule 11 CPC, the time limit for filing the written statement stipulated under Order 8 Rule 1 CPC cannot be extended. **(2019) 12 SCC 210**, titled **SCG Contracts (India) Private Limited Versus K.S. Chamankar Infrastructure Private Limited and others**, was cited in support of the plea.

**4.** I have heard learned counsel for the parties and gone through the case file.

**4(i).** Order 7 Rule 11 CPC pertains to rejection of plaint and reads as under:-

*"O7 R11. Rejection of plaint*

*The plaint shall be rejected in the following cases:-*

- (a) where it does not disclose a cause of action;
- (b) where the relief claimed is undervalued, and the plaintiff, on being required by the court to correct the valuation within a time to be fixed by the court, fails to do so;
- (c) where the relief claimed is properly valued, but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the court to supply the requisite stamp-paper within a time to be fixed by the Court, fails to do so;
- (d) where the suit appears from the statement in the plaint to be barred by any law;
- (e) where it is not filed in duplicate;
- (f) where the plaintiff fails to comply with the provisions of rule 9:

*Provided that the time fixed by the court for the correction of the valuation or supplying of the requisite stamp-papers shall not be extended unless the court, for reasons to be recorded, is satisfied that the plaintiff was prevented by any cause of an exceptional nature from correcting the valuation or supplying the requisite stamp papers, as the case may be, within the time fixed by the court and that refusal to extend such time would cause grave injustice to the plaintiff."*

It is settled principle of law that an application under Order 7 Rule 11 CPC can be filed at any stage. Once such an application is instituted, the Court is bound to dispose of the same before proceeding with the trial.

**4(ii).** (2003) 1 SCC 557, titled **Saleem Bhai and others Versus State of Maharashtra and others**, was a case before the Apex Court, where the appellant had filed an application under Order 7 Rule 11 CPC, praying for dismissal of the suit on the stated grounds. The respondents had also filed an application under Order 8 Rule 10 CPC with a prayer to the Court for pronouncing the judgment in the suit as the appellant had not filed the

written statement. The appellant also moved an application under Section 151 CPC praying the Court to first decide the application under Order 7 Rule 11 CPC. Learned Trial Court dismissed the application filed under Order 8 Rule 10 CPC as well as the application filed under Section 151 CPC. The appellant was directed to file his written statement. The High Court affirmed the order passed by the learned Trial Court that appellant should file his written statement and observed that the Trial Court shall frame issues and record its finding on preliminary issues before proceeding to try the suit on facts. The order passed by the High Court was agitated in the Hon'ble Supreme Court. The question that arose before the Hon'ble Apex Court was as to whether an application under Order 7 Rule 11 CPC was to be decided on the basis of allegations in the plaint and filing of written statement by the contesting defendant was irrelevant and unnecessary. The Hon'ble Apex Court held that for the purpose of deciding the application under Order 7 Rule 11 CPC, it is only the averments in the plaint that are germane. The pleas taken up by the defendants in the written statement will be wholly irrelevant at that stage. The Apex Court also held that a direction to file the written statement without deciding the application under Order 7



Rule 11 CPC is a procedural irregularity touching the exercise of jurisdiction by the learned Trial Court. Relevant para of the judgment reads as under:-

*“9. A perusal of Order 7 Rule 11 CPC makes it clear that the relevant facts which need to be looked into for deciding an application thereunder are the averments in the plaint. The trial court can exercise the power under Order 7 Rule 11 CPC at any stage of the suit-before registering the plaint or after issuing summons to the defendant at any time before the conclusion of the trial. For the purposes of deciding an application under clauses (a) and (d) of Rule 11 of Order 7 CPC, the averments in the plaint are germane; the pleas taken by the defendant in the written statement would be wholly irrelevant at that stage, therefore, a direction to file the written statement without deciding the application under Order 7 Rule 11 CPC cannot but be procedural irregularity touching the exercise of jurisdiction by the trial court. The order, therefore, suffers from non-exercising of the jurisdiction vested in the court as well as procedural irregularity. The High Court however, did not advert to these aspects.”*

The judgment in Saleem Bhai's case, supra, came up for consideration in **(2016) 14 SCC 275**, titled ***R.K. Roja Versus U.S. Rayudu and another***. Reiterating the law laid down in Saleem Bhai's case, supra, it was held that once the application is filed under Order 7 Rule 11 CPC, the Court has to dispose of the same before proceeding with the trial. At this stage, it will be appropriate to extract relevant portion of the judgment:-

*“5. Once an application is filed under Order 7 Rule 11 CPC, the court has to dispose of the same before proceeding with the trial. There is no point or sense in proceeding with the trial of the case, in case the plaint (election petition in the present case) is only to be rejected at the threshold. Therefore, the defendant is entitled to file the application for rejection before filing his written statement. In case the application is rejected, the defendant is entitled to file his written statement thereafter (see Saleem Bhai v. State of Maharashtra, (2003) 1*

SCC 557). But once an application for rejection is filed, the court has to dispose of the same before proceeding with the trial court. To quote the relevant portion from para 20 of the *Sopan Sukhdeo Sable* case [(2004) 3 SCC 137]: (SCC pp. 148-49)

“20. ... Rule 11 of Order 7 lays down an independent remedy made available to the defendant to challenge the maintainability of the suit itself, irrespective of his right to contest the same on merits. The law ostensibly does not contemplate at any stage when the objections can be raised, and also does not say in express terms about the filing of a written statement. Instead, the word “shall” is used, clearly implying thereby that it casts a duty on the court to perform its obligations in rejecting the plaint when the same is hit by any of the infirmities provided in the four clauses of Rule 11, even without intervention of the defendant.”

6. In *Saleem Bhai* case [(2003) 1 SCC 557], this Court has also held that: (SCC p. 560, para 9)

“9. ... a direction to file the written statement without deciding the application under Order 7 Rule 11 cannot but be a procedural irregularity touching the exercise of jurisdiction by the trial court.”

The principles laid down in the above two judgments have been reiterated in **2020 (8) SCALE 219**, titled ***Shakti Bhog Food Industries Ltd. VS The Central Bank of India & Anr.***

**4(iii).** Interwoven with the question involved in the case is the time schedule for filing the written statement.

Order 8 Rule 1 CPC sets down following timeline for filing the written statement:-

“O8 R1. Written statement.- The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:

Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.”

Nature of above provision has been held to be procedural and not substantive law. Settled legal position is that the provisions of Order 8 Rule 1 CPC are directory and not mandatory. The time limit prescribed for filing the written statement therein has to be respected ordinarily. The provision provides for extension of time for filing the written statement. However, the extension should not be granted in routine, but only in exceptionally hard cases. It would be apt to refer here following paras from **(2018) 6 SCC 639**, titled **ATCOM Technologies Limited Versus Y.A. Chunawala and Company and others:-**

*“19. It has to be borne in mind that as per the provisions of Order VIII Rule 1 of the Code of Civil Procedure, 1908, the defendant is obligated to present a written statement of his defence within thirty days from the date of service of summons. Proviso thereto enables the Court to extend the period upto ninety days from the date of service of summons for sufficient reasons. Order VIII Rule 1 of the Code of Civil Procedure, 1908 reads as under:*

*“1. Written statement.- The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:*

*Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the same on such other day, as may be specified by the Court, for reasons to be recorded in writing, but which shall not be later than ninety days from the date of service of summons.”*

*20. This provision has come up for interpretation before this Court in number of cases. No doubt, the words “shall not be later than ninety days” do not take away the power of the court to accept written statement beyond that time and it is also held that the nature of the provision is procedural and it is not a part of substantive law. At the same time, this Court has also mandated that time can be extended only in exceptionally hard cases. We would like to reproduce the following discussion from Salem Advocate Bar Assn. v. Union of India [(2005) 6 SCC 344]: (SCC p.354, para 21)*

*"21. ...There is no restriction in Order 8 Rule 10 that after expiry of ninety days, further time cannot be granted. The court has wide power to "make such order in relation to the suit as it thinks fit". Clearly, therefore, the provision of Order 8 Rule 1 providing for the upper limit of 90 days to file written statement is directory. Having said so, we wish to make it clear that the order extending time to file written statement cannot be made in routine. The time can be extended only in exceptionally hard cases. While extending time, it has to be borne in mind that the legislature has fixed the upper time-limit of 90 days. The discretion of the court to extend the time shall not be so frequently and routinely exercised so as to nullify the period fixed by Order 8 Rule 1."*

21. *In such a situation, onus upon the defendant is of a higher degree to plead and satisfactorily demonstrate a valid reason for not filing the written statement within thirty days. When that is a requirement, could it be a ground to condone delay of more than 5 years even when it is calculated from the year 2009, only because of the reason that Writ of Summons were not served till 2009?*
22. *We fail to persuade ourselves with this kind of reasoning given by the High Court in condoning the delay, thereby disregarding the provisions of Order 8 Rule 1 of the Code of Civil Procedure, 1908 and the spirit behind it. This reason of the High Court that delay was condoned "by balancing the rights and equities" is far-fetched and, in the process, abnormal delay in filing the written statement is condoned without addressing the relevant factor viz. whether the respondents had furnished proper and satisfactory explanation for such a delay. The approach of the High Court is clearly erroneous in law and cannot be countenanced. No doubt, the provisions of Order 8 Rule 1 of the Code of Civil Procedure, 1908 are procedural in nature and, therefore, handmaid of justice. However, that would not mean that the defendant has right to take as much time as he wants in filing the written statement, without giving convincing and cogent reasons for delay and the High Court has to condone it mechanically."*

In the case in hand, the defendants were admittedly served in the civil suit by April, 2020. The civil suit thereafter had been repeatedly fixed for filing of written statement by them. As observed earlier, according to the case status document supplied by learned counsel for the

respondents, the matter was fixed before the learned Trial Court for filing of written statement by the defendants on 09.04.2020, 19.06.2020, 22.09.2020, 10.11.2020, 06.01.2021 and 22.03.2021. On three subsequent dates, i.e. 06.05.2021, 12.07.2021 and 21.08.2021, the matter was fixed for proper orders/service. Lastly, the matter was fixed on 01.11.2021 for filing of written statement. The written statement was not filed by the defendants. Instead of filing the written statement, an application was moved under Order 7 Rule 11 CPC for rejection of plaint on the ground of undervaluation of the suit for the purposes of court fees & jurisdiction and that the learned Trial Court lacked pecuniary jurisdiction to try the suit. No explanation was offered by the defendants for not filing the written statement during the last about two years.

Admittedly, no application has been filed by the defendants for extension of time to file the written statement beyond the period prescribed under Order 8 Rule 1 CPC. Instead of filing the written statement on 01.11.2021, the defendants came up with an application under Order 7 Rule 11 CPC. A copy of this application appended at Annexure P-3, prima-facie, shows that it was signed on 22.03.2021 and attested on 12.07.2021.

Despite having entered appearance in the civil suit about two years ago, the defendants have neither filed their written statement nor moved any application seeking extension of time to file it. In **R.K. Roja's** case, supra, the Hon'ble Apex Court had also cautioned that liberty to file an application under Order 7 Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement. These observations relevant in context of present controversy are extracted hereinafter:-

*"However, we may hasten to add that the liberty to file an application for rejection under Order 7 Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement."*

The above observations were again noticed and explained by the Hon'ble Apex Court in **(2019) 12 SCC 210**, titled **SCG Contracts (India) Private Limited Versus K.S. Chamankar Infrastructure Private Limited and others**. It was a case involving provisions of Order 8 Rule 1 CPC as amended by the Commercial Courts Act, 2015. The amended provisions of Order 8 Rule 1 CPC read as under:-

**"O8 R1. Written statement**

*The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:*

*Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one*

*hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.”*

Defendant No.1 in the above case had not filed written statement within 120 days from the date of service of summons in the suit. Instead, he moved an application under Order 7 Rule 11 CPC. The application was taken up and rejected. After dismissal of Order 7 Rule 11 CPC application, the defendant prayed for seven days' time to file written statement. The Court allowed the defendant to file written statement within the specified time subject to payment of costs of Rs.25,000/- to the plaintiff. The order was complied with and written statement was filed within the time limit mentioned in the order. The plaintiff agitated that changes made in the CPC were not adhered to. That the written statement could not be taken on record in view of the fact that 120 days had elapsed from the date of service of summons of the suit. Amended provisions of Order 8 Rule 1 CPC were pressed in service by the plaintiff. One of the arguments raised by the respondents before the Hon'ble Apex Court was that as an application under Order 7 Rule 11 CPC had been filed and that had to be answered before the trial of the suit could commence. That a written

statement could not be filed prior to the adjudication of the application under Order 7 Rule 11 CPC. The argument was based upon the judgment in **R.K. Roja's** case, supra. While answering this contention, the Apex Court held that the judgment in R.K. Roja's case cannot be read in the manner sought for by the respondents. That Order 7 Rule 11 proceedings are independent of filing of the written statement once a suit has been filed. The written statement was ordered to be taken off the record. It would be appropriate at this stage to extract the observations of the Apex Court in this regard:-

*"11. We are of the view that the view taken by the Delhi High Court in these judgments is correct in view of the fact that the consequence of forfeiting a right to file the written statement; non-extension of any further time; and the fact that the Court shall not allow the written statement to be taken on record all points to the fact that the earlier law on Order 8 Rule 1 on the filing of written statement under Order 8 Rule 1 has now been set at naught.*

*13. We are of the view that since both these judgments dealt with the pre-amendment position, they would not be of any direct reliance insofar as the facts of the present case are concerned.*

*14. The learned counsel appearing for the respondents also relied upon R.K. Roja v. U.S. Rayudu for the proposition that the defendant is entitled to file an application for rejection of plaint under Order 7 Rule 11 before filing his written statement. We are of the view that this judgment cannot be read in the manner sought for by the learned counsel appearing on behalf of the respondents. Order 7 Rule 11 proceedings are independent of the filing of a written statement once a suit has been filed. In fact, para 6 of that judgment records: (SCC p. 277)*

*"6. ... However, we may hasten to add that the liberty to file an application for rejection under Order 7 Rule 11 CPC cannot be made as a ruse for retrieving the lost opportunity to file the written statement."*



**Civil Appeal No.1318 of 2022**, titled **Prakash Corporates Versus Dee Vee Projects Limited**, decided on 14.02.2022, was a case under the Commercial Courts Act, 2015, where the learned Trial Court declined the prayer of defendant for granting further time to file the written statement after expiry of 120 days from the date of service of summons in view of amended provisions of Order 8 Rule 1 CPC. The order was upheld by the High Court. Hon'ble Apex Court though allowed the appeal and permitted the written statement to be taken on record on certain grounds and also taking note of the orders passed in Suo Moto Writ Petition (Civil) No.3 of 2020, but held as under with respect to the time limit for filing the written statement and consequences of default:-

*\*17. If the aforesaid provisions and explained principles are literally and plainly applied to the facts of the present case, the 120<sup>th</sup> day from the date of service of summons came to an end with 06.05.2021 and the defendant, who had earlier been granted time for filing its written statement on payment of costs, forfeited such right with the end of 120<sup>th</sup> day, i.e., 06.05.2021. However, it is required to be kept in view that the provisions aforesaid and their interpretation in SCG Contracts (supra) operate in normal and non-extraordinary circumstances with the usual functioning of Courts. It is also noteworthy that the above referred provisions of CPC are not the only provisions of law which lay down mandatory timelines for particular proceedings. The relevant principles, in their normal and ordinary operation, are that such statutory timelines are of mandatory character with little, or rather no, discretion with the Adjudicating Authority for enlargement. The question in the present case is, as to whether the said provisions and principles are required to be applied irrespective of the operation and effect of other orders passed/issued by the Courts under the force of aberrant,*

*abnormal and extraordinary circumstances? In our view, the answer to this question cannot be in the affirmative for a variety of reasons, as indicated infra.”*

**4(iv).** Reverting back to the facts of the present case, the defendants even after entering appearance in the matter two years ago, have still not filed their written statement. No doubt, application under Order 7 Rule 11 CPC can be filed at any stage and this application has to be adjudicated first before proceeding with the trial. Nonetheless Order 7 Rule 11 CPC proceedings have been held to be independent of filing of written statement. There is no embargo upon the defendants to file written statement before adjudication of Order 7 Rule 11 CPC application. Pendency of Order 7 Rule 11 CPC application filed two years later to the date of appearance of defendants in the civil suit cannot be taken as a ruse for not filing the written statement. Provisions of Order 8 Rule 1 CPC cannot be simply ignored or else under the guise of moving frivolous Order 7 Rule 11 CPC applications, the defendants can always protract the trials, thereby defeating not only the object of the provisions, but also the cause of justice. Also as per the impugned order, it was the defendants, who prayed for more time to file written statement. Learned Trial Court accordingly granted them

one last opportunity. There is nothing wrong in the approach of the learned Trial Court.

For all the above reasons, this petition lacks merit and is accordingly dismissed. Parties, through their learned counsel, are directed to appear before the learned Trial Court on **21.03.2022**. It shall be open to the petitioners to file the written statement in the learned Trial Court by 21.03.2022 in terms of the impugned order, failing which, learned Trial Court shall proceed further in the matter in accordance with law.

Before parting, it is clarified that this Court has not expressed any opinion on merits of application under Order 7 Rule 11 CPC moved by defendants No.1 and 2. The observations made above are confined only to adjudication of present petition.

March 05, 2022  
*Mukesh*

Jyotsna Rewal Dua  
Judge