

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WP227 No. 99 of 2016**

- Smt. Kavita D/o Saroj Kumar Munna, Aged About 39 Years R/o Purana Market, Bachel, P.O. Bachel, District South Bastar, Dantewada Chhattisgarh

---- Petitioner**Versus**

- Samiran Das S/o K.C. Das, Aged About 41 Years R/o Purana Market, Bachel, P.O. Bachel, District South Bastar, Dantewada Chhattisgarh

---- Respondent

For Petitioner	:	Mr. Anoop Majumdar, Advocate.
For Respondent	:	None.

Order On Board**12/02/2016**

1. Heard on admission.
2. Learned counsel for the petitioner submits that the court below has not acted as per directions of this Court passed in W.P. 227 No. 749/2015 whereby in para 4, this court ordered that

“Present is a case where the petitioner has filed a petition before the Court below for divorce, therefore, it is directed that the Court below shall not grant more than opportunity to the respondent to file reply on the next date fixed for filing written statement. Thereafter, the court shall expeditiously dispose off the proceedings as early as possible within a period of 6 months from the date of receipt of copy of this order which is now being passed. All endeavor shall be made to dispose off the case without granting unnecessary adjournment to all the parties.”

It is submitted that the petitioner came to know regarding direction given by this Court on 16-10-2015 and as per the order of this Court, the court below was required to give one next date for filing written statement but the court below wrongly appreciated and closed the opportunity of the petitioner for filing his return in the matter. Hence the matter may be disposed of without even noticing the respondent by awarding an opportunity to the petitioner for filing his written statement. Learned counsel submits that at the moment, he does not know regarding the next date of hearing but whatever the next date of hearing is, he shall file written statement on that very next date. Hence he may be given an opportunity.

3. For appreciation of the arguments advanced, the instant writ petition, the order passed by this Court on 10-9-2015 in W.P. 227 No. 749 of 2015 and the order

of the court below dated 23-10-2015 are perused.

4. From perusal of the order sheet of the Court below, it appears that the case was listed on 16-10-2015. As per order dated 10-9-2015 of this Court a direction was issued that the trial Court to award one opportunity to the respondent to file reply on the next date fixed . From perusal of the entire order sheet, it appears that the order passed by this Court came to the knowledge of the petitioner on 16-10-2015, prior to that he had no knowledge regarding the order passed by this Court. Therefore, a date was required to be given for filing written statement as per order of this Court but on the other hand the court below closed the opportunity of the petitioner and on initial dated 16-10-2015 listed the matter for 23-10-2015 for reply and argument, instead the court below was required to list the matter for written statement only. With this ambiguous state of affairs, in the considered view of this Court, in the larger interest of justice, one opportunity would be appropriate to file the written statement.

5. Consequently, the instant writ petition is disposed of without notice to the respondent and the petitioner is directed to file his written statement straightway on the very next date of hearing from today, even may be the next working day. If written statement is not filed on the very next date of hearing, the right to file written statement shall be ceased immediately.

6. The petitioner is directed to file certified copy of this order along with his written statement before the trial Court on the very next date of hearing from today.

7. The petition is accordingly disposed of.

8. No order as to costs.

9. Certified copy today.

Sd/-
(Chandra Bhushan Bajpai)
Judge