

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CR No.4109 of 2016 (O&M)
Date of decision:14.06.2016

Kanwalvir Singh Kang

... Petitioner

Vs.

Amanpreet Kaur and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Shubham Bhalla, Advocate
for the petitioner.

AMIT RAWAL J. (Oral)

This is a petition at the instance of the husband under Article 227 of the Constitution of India read with Section 21-B of the Hindu Marriage Act, 1955 (for short “the Act”) for issuing appropriate directions to the trial Court to expedite the decision of HMA Case No.727 of 2015 titled as Kanwalvir Singh Kang vs. Amanpreet Kaur and another.

It is stated and as evident from the zimni orders, extracted in the grounds of revision petition, the aforesaid divorce petition under Section 13 of the Act was filed on 30.10.2015. Respondent No.1-wife had put in appearance only after she was ordered to be served by way of publication and thereafter, it is further revealed that about 13 adjournments have been taken for filing the written statement. Even counsel on one occasion had

been changed, much less, even earlier Judge had released the matter and the same had been transferred to another Presiding Officer.

Mr. Shubham Bhalla, learned counsel appearing on behalf of the petitioner submits that from the perusal of the zimni orders, it is irresistibly concluded that respondent No.1-wife, in active connivance with respondent No.2, who has been dismissed from pious service of Additional District and Sessions Judge and practicing as an Advocate adopted all possible dilatory tactics for delaying the decision of the petition, much less, there is apparent defiance of the provisions of Order 8 Rule 1 of the Code of Civil Procedure, in essence, defence of respondent No.1, in the facts and circumstances of the present case, was liable to be struck off, yet the Court below had been granting the opportunities to file written statement subject to payment of costs. Even the order granting the maintenance pendente lite has not been assailed so far, but lame excuses have been given by respondent No.1 for not filing the written statement and thus, urges this Court for issuing appropriate directions to the trial Court below. In support of his aforementioned contentions, relies upon the judgment of this Court rendered in **CR No.3259 of 2011 titled as Darshan Lal Bajalia vs. Suman decided on 17.05.2011** and judgment of Calcutta High Court in **Joydeb Chandra Dutta vs. Kaberi Dutta @ Das 2012 (8) RCR (Civil) 89**, wherein, in identical situation, the Hon'ble Court had issued directions without calling upon the respondent-wife as it would entail into litigation expenses, much less, protraction of the trial.

I have heard learned counsel for the petitioner and appraised the paper book and of the view that in case, such directions are issued, no prejudice would be caused to the respondent-wife, particularly, when the Statute itself mandatorily requires the disposal of the divorce petition, preferably within a period of six months.

For the sake of brevity, *Section 21-B of Hindu Marriage Act reads thus:-*

[21B Special provision relating to trial and disposal of petitions under the Act.

- 1. The trial of a petition under this Act shall, so far as is practicable consistently with the interests of justice in respect of the trial, be continued from day to day until its conclusion unless the Court finds the adjournment of the trial beyond the following day to be necessary for reasons to be recorded.*
- 2. Every petition under this Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of petition on the respondent.*

(3) Every appeal under this Act shall be heard as expeditiously as possible, and endeavour shall be made to conclude the hearing within three months from the date of service of notice of appeal on the respondent.]

I am totally in agreement with the submissions made by Mr. Bhalla, as well as, case law cited at bar and of the view that it is a fit case, where the appropriate directions are required to be issued to the trial Court to expedite the decision of the divorce petition strictly in consonance

with the statutory provisions referred above.

Keeping in view the tardy approach of respondent No.1 in not filing the written statement so far, I deem it appropriate to dispose of the present revision petition with a direction to the trial Court to expedite the decision of the HMA Case No.727 of 2015 titled as Kanwalvir Singh Kang vs. Amanpreet Kaur and another, preferably within a period of six months from the date of the order and none of the parties shall be instrumental in delaying the directions issued in the case and if the trial Court finds adoption of such practice, it may pass an appropriate order, in accordance with law.

Accordingly, revision petition stands disposed of.

(AMIT RAWAL)
JUDGE

June 14, 2016
savita