

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

CR No.6477 of 2016(O&M)

Date of decision:28.9.2016

Shaiwal Gupta

....Petitioner

VERSUS

Perna Kaur and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Navdeep Chhabra, Advocate for the petitioner.

REKHA MITTAL, J. (Oral)

The present petition has been directed against order dated 03.09.2016 (Annexure P-7) passed by the Additional District Judge, Ludhiana whereby defence of the petitioner qua application filed under Section 24 of the Hindu Marriage Act, 1955 (in short 'the Act') has been struck off for want of filing of reply.

Counsel for the petitioner would submit that a compromise was effected between the parties in pursuance whereof, the petitioner (husband) paid a lump sum amount to the respondent (wife) but a petition under Section 13B of the Act has not been filed. It is further submitted that a serious prejudice would be caused to the petitioner in case he is not allowed to file reply to the application for grant of maintenance *pendente lite*. It is prayed that the petitioner may be allowed one opportunity to file his reply.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

A perusal of the order would indicate that the petitioner (respondent therein) was granted number of opportunities including last opportunity to file response to the application under Section 24 of the Act but he failed to do so. Later, he filed an application under Order 11 Rule 1 of the Code of Civil Procedure, 1908 (in short 'CPC') and insisted for disposal thereof before deciding the application under Section 24 of the Act. There may not be any error committed by the trial Court in closing right of the petitioner to file reply to the application but still in the interest of substantial justice, the petitioner is granted one opportunity to file reply to the application.

However, submissions made by counsel for the petitioner qua any compromise between the parties or payment of any amount to the respondent in pursuance thereof have not been examined and the same are left to be decided by the Court below in accordance with law. The petitioner would be at liberty to make a request to the Court below for disposal of his application filed under Order 11 Rule 1 CPC, at an appropriate stage.

Disposed of accordingly.

SEPTEMBER 28, 2016

'D. Gulati'

(REKHA MITTAL)

JUDGE

Whether speaking/reasoned : yes/no

Whether reportable : yes/no