

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

CR No. 1043 of 2017 (O&M)

Date of decision: 14.02.2017

Preeti

... Petitioner

versus

Ravinder Kumar

.... Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Parminder Singh, Advocate for the petitioner.

HARI PAL VERMA, J. (ORAL)

The present petition has been filed under Article 227 of the Constitution of India seeking setting aside of the impugned order dated 19.01.2017 whereby defence of the petitioner has been struck off for non-filing the written statement on her behalf, inspite of opportunities afforded to her.

Learned counsel for the petitioner has argued that marriage of the petitioner was solemnized with the respondent on 16.07.2013 according to the Hindu Rites and Ceremonies at Chandigarh. Thereafter, the respondent-husband has filed divorce petition under Section 13 of the Hindu Marriage Act on 03.05.2016. Notice in the said petition has been issued to the petitioner-wife and she has put in appearance on 21.09.2016 before the matrimonial court.

The said divorce petition was fixed for 04.11.2016 for filing the written statement and for reconciliation proceedings. However, she

being down with viral fever could not join the reconciliation proceedings. In this manner the matter was adjourned to 19.01.2017. She remained under the impression that the case is pending for the purpose of compromise in the mediation centre and more opportunities will be granted to her to file the written statement.

I have heard learned counsel for the petitioner.

The order dated 19.01.2017 passed by the Additional District Judge, Panipat reads as under:

“Written statement not filed. The respondent put in appearance on 21.09.2016 and has obtained three effective opportunities for filing the written statement. More than three months have already been elapsed since the appearance of the respondent. Today was the last opportunity for filing the written statement but despite availing sufficient time and opportunities written statement has not been filed on behalf of the respondent. Thus, I find no reason to adjourn the case for the same purpose and defence of the respondent is hereby struck off.

Now, to come up on 11.04.2017 for evidence of the petitioner.”

The petition filed under Section 13 of the Hindu Marriage Act seeking dissolution of marriage is at initial stage. The dispute is regarding matrimonial discord between the parties, therefore, the strict interpretation of opportunities is not required to be done, more particularly, when 04.11.2016 was the date fixed for reconciliation

proceedings. It being a matrimonial dispute where still there is a possibility of reconciliation, this Court finds that the petitioner deserve one more opportunity so as to file her written statement in the case.

Taking into consideration the nature of proceedings, which will further prolong the litigation, this Court find that no notice is required to be issued to the respondent-husband.

Accordingly, the present petition is allowed and the order dated 19.01.2017 is set aside and the petitioner is afforded one more opportunity to file the written statement within 15 days from today subject to the payment of cost of Rs. 5,000/-. In case, she failed to file the written statement, the present petition is deemed to have been dismissed and the order dated 19.01.2017 shall automatically revive.

The petition is disposed of accordingly.

(HARI PAL VERMA)
JUDGE

14.02.2017

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Whether speaking/non-speaking: Yes/No

Whether reportable : Yes/No