

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

CR-1701-2018(O&M)

Date of decision : 15.10.2018

Komal

... Petitioner

Versus

Vinay Kumar Lamba

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.Pradeep Sharma, Advocate
for the petitioner.

Mr.S.K.Khurcha, Advocate
for the respondent.

AMOL RATTAN SINGH, J.(ORAL)

As already noticed in the previous order, by this petition the petitioner challenges the order of the learned trial Court dated 06.10.2017, by which her defence before that Court has been struck off, she not having filed a written statement to the petition filed by the respondent herein (i.e. the petitioner before that Court), even though she had put in appearance through her counsel first on 16.02.2017.

This Court even on the last date of hearing had been inclined to allow the petition, only subject to payment of costs as the issue before the trial Court is the custody of a minor child, who is presently in the custody of the petitioner. However, to determine as to what costs should be imposed upon the petitioner for delaying the trial, learned counsel had been directed to place on record her salary slips.

Today learned counsel has produced in Court an application accompanied by an affidavit of the petitioner, annexing therewith what are

seen to be her salary statements showing her net salary to be Rs.10,944/- and Rs.10,925/- for the months of July and August, 2018 and Rs.10,888/- and Rs.10,083/- for the months of June and September 2018 respectively. The bank statements have also been annexed with the application.

Consequently the application is taken on record with the Registry directed to give it a number appropriately, a copy already having been given to learned counsel opposite.

Considering the above the petition is allowed to the extent that the impugned order is set aside with the petitioner given one chance to file a written statement within a period of 15 days from today, subject to payment of costs of Rs.5000/- to the respondent.

It is to be noticed here that though there is a period of 90 days stipulated for filing of a written statement under Order 5 Rule 1 CPC, however Order 8 Rule 1 of the Code has been amended in its applicability to the States of Punjab, Haryana and U.T. Chandigarh, wherein no specific period of 90 days is provided, though of course the written statement is to be filed within a reasonable time.

(AMOL RATTAN SINGH)
JUDGE

October 15, 2018.

D.K./dinesh

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No