

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

Sr. No.210

C.R. No.261 of 2017

Date of decision: 20.02.2019

Anil Bansal

....Petitioner

versus

Priyanaka

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Vikas Chaudhary, Advocate
for the petitioner.

Mr. A.P. Bhandari, Advocate
for the respondent.

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DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 19.12.2016 passed by the District Judge, Family Court-II, Faridabad (for short – the Trial Court) through which the petitioner's defence has been struck off.

The facts, in brief, which are required to be noticed for adjudicating upon the present petition are that the respondent-wife filed a petition under Section 13(i) of the Hindu Marriage Act, 1955 seeking therein divorce from the petitioner-husband. In such petition, notice was issued to the petitioner for 28.10.2015. However, since on 28.10.2015, the Presiding Judge was to be on leave, the file was taken up a week earlier i.e. on 21.10.2015 and the matter was adjourned to 12.02.2016 on which date after assuming that the petitioner would had been served, the Court directed that he be proceeded ex parte. Thereafter, on the adjourned date i.e.

13.05.2016, four witnesses of the respondent-wife were examined and the matter was adjourned to 29.07.2016. However, prior thereto i.e. on 20.05.2016, the petitioner filed an application seeking therein to set aside ex parte order dated 12.02.2016. In such application filed by the petitioner, notice was issued to the respondent-wife and on 07.10.2016, the ex parte proceedings against the petitioner-husband were set aside. The matter was thereafter adjourned to 19.12.2016 to enable the petitioner to file his written statement on which date for the reason that the petitioner had not filed his written statement, his defence was struck off.

Learned counsel for the parties have been heard.

A perusal of the record reveals that on 07.10.2016, after setting aside the ex parte proceedings against the petitioner-husband, the Trial Court adjourned the matter to 19.12.2016 which effectively was the first date granted by the Trial Court to enable the petitioner to file his written statement. On the adjourned date, i.e. 19.12.2016, when the petitioner did not file his written statement his defence has been struck off. Thus, the petitioner was granted only one effective opportunity to file his written statement.

In the above facts, the impugned order is found to be harsh where the petitioner has been precluded from raising his written defence at the threshold of the proceedings lodged against him. Resultantly, the impugned order is set aside and the petitioner is granted two weeks time from today to file his written statement. However, the same shall be subject to payment of Rs.5000/- as costs to be paid by the petitioner to the respondent.

The Trial Court shall grant three effective opportunities each to

both parties to present their respective evidence and make all endeavors to dispose of the main petition within six months from the date of receipt of a certified copy of this order.

The present petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

February 20, 2019
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No