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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 7999 of 2018 (O&M)
Date of Decision: 22.02.2019

Smt. Vajinder Kaur

-Petitioner

Vs

Jarnail Singh

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: None for the petitioner.

Mr. Deepak Sharma, Advocate, and
Mr. J.S. Khattar, Advocate,
for the respondent.

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RAJ MOHAN SINGH, J. (ORAL)

Petitioner is wife of the respondent.

Respondent has filed a petition under Section 13 of Hindu Marriage Act for dissolution of marriage on the ground of cruelty and desertion.

Defence of the petitioner-wife was struck off for want of written statement.

Provision in terms of Order 8 Rule 1 CPC is directory in nature, though the same has been couched in mandatory overtone. In appropriate case, the Court can extend the time for filing written statement beyond the period of 90 days.

In ***Kailash vs. Nanhku and others, 2005 (2)***

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RCR (Civil) 379, ***Sandeep Thapar vs. SME Technologies Private Limited, 2014(1) RCR (Civil) 729*** and ***Salem Advocate Bar Association, Tamil Nadu vs. Union of India, AIR 2005 SC 3353***, it was held that the provisions in terms of Order 8 Rule 1 CPC does not impose any embargo on the powers of the Court to extend time for filing written statement beyond the period of 90 days. The said power can be exercised in an appropriate case.

In the instant case, keeping in view the relationship between the parties and pending litigation before the trial Court, I deem it appropriate to grant one opportunity to the petitioner to file written statement on a date to be fixed by the trial Court.

Since the parties are related to each other being husband and wife, therefore, I deem it appropriate not to grant any cost(s) to the respondent for the indulgence granted in favour of the petitioner.

Disposed of.

22.02.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No

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