

CRM-M-9275-2022

Date of Decision: 04.03.2022

CHANDER MOHAN

... Petitioner

v/s

MANPREET KAUR

... Respondent

**CORAM: HON'BLE MR. JUSTICE VIVEK PURI**Present: Mr.Anurag Chopra, Advocate  
for the petitioner.

\* \* \* \*

**VIVEK PURI, J. (ORAL)**

The petitioner has assailed the order dated 14.01.2022 passed by the learned Addl. Principal Judge, Family Camp Court, Garhshankar vide which the defence of the petitioner has been struck off.

The perusal of the impugned order indicates that petitioner had put appearance in the Court below on 19.03.2021 but he has not filed the reply to the main petition as well as application for interim relief despite repeated opportunities. The petitioner even failed to pay costs of Rs.1000/- and even did not bother to file the reply. Consequently, the defence was struck off.

Learned counsel for the petitioner contends that the petitioner could not engage the counsel at the earlier instance on account of Covid-19 pandemic and had also submitted an application for adjournment to file written statement, Annexure P-6. The said application is stated to have been instituted wayback in August, 2021.

It has been further stated that the petitioner has also preferred a petition under Section 9 of Hindu Marriage Act for restitution of conjugal

rights wherein the talks for amicable settlement were also initiated. The case is fixed in the trial Court for 08.04.2022 and before that date the reply shall be submitted in the Court.

In the instant case, the defence of the petitioner has been struck off on account of non-payment of costs and failure on his part to file the reply. However, it is deemed appropriate that an opportunity may be granted to the petitioner to file the reply and the controversy is adjudicated on merits. For the lapse on the part of the petitioner, he can be burdened with further costs.

In these set of circumstances, impugned order dated 14.01.2022 is set aside, subject to payment of Rs. 10,000/- as costs in addition to Rs. 1000/- already awarded by the Court below and the petitioner shall file the reply on or before 08.04.2022, the date already fixed before the Court below. However, it is further made clear that in the event, learned Presiding Officer is not holding the Court on 08.04.2022, the reply be submitted on tendering costs on the next effective date of hearing.

Disposed of.

**04.03.2022**

Janki

**(VIVEK PURI)  
JUDGE**

*Whether speaking/reasoned : Yes/No*  
*Whether reportable : Yes/No*