

CR-2332-2022
DECIDED ON: 9th JUNE, 2022

...PETITIONER

.....RESPONDENT

Mr. Ambuj Srivastava, Advocate
for the respondent.

The instant revision petition under Article 227 of the Constitution of India has been filed by Meenakshi Baweja-mother against the impugned order dated 31st May, 2022 (Annexure P-2) passed by learned Additional Principal Judge, Family Court, Gurugram in a petition under Section 24 of the Guardians and Wards Act filed by the respondent-father for visitation rights/overnight custody of the minor sons in which interim order was passed whereby, the custody of the minor sons from 2nd June, 2022 to 14th June, 2022 has been given to the respondent-father and the defence of the petitioner-mother for filing reply has also been struck off.

Learned counsel for the petitioner submits that since another six days are left as per period granted for interim custody in favour of the respondent-father, he does not wish to press the present petition at this stage.

However, a request is made that the defence which stands struck off by the

Court below for not filing written statement since 5th October, 2021, to that extent the revision petition be allowed.

Learned counsel for the respondent opposes the prayer made by the counsel for the petitioner and made an attempt to highlight the conduct of the petitioner-mother, which otherwise are questions of disputed facts, to be adjudicated and examined during the course of evidence and therefore, this Court does not deem it appropriate to consider the same, which are not part of the record.

Learned counsel for the petitioner has further submitted that it was for the first time on 4th April, 2022 the case was fixed for filing written statement and thereafter on 30th May, 2022 but the order was passed on 31st May, 2022 itself striking down the defence restraining the petitioner from filing the written statement.

Be that as it may, the period of 90 days is still not over, if the first date for filing the written statement is taken to be 4th April, 2022, as the order under challenge before this Court itself shows that efforts were being made to interact with the minor children and the petitioner-mother was called upon to appear and to produce the children time and again, as part of re-conciliation/mediation proceedings.

This court is of the considered view that no prejudice would be caused to either of the parties to the *lis*, if written statement is allowed to be filed otherwise also to meet the ends of justice providing equal opportunity to them , as the dispute is of utmost importance relating to the future and welfare of two minor children.

In the light of afore-said discussion and on perusal of the case

file, the order dated 31st May, 2022 is modified to the extent that petitioner-mother is allowed to file written statement on or before 15th July, 2022 with an advance copy to the counsel for the respondent-father. In case the written statement is not filed within the prescribed period, the order with regard to striking down the defence of the petitioner-mother will become operative.

It is further made clear that opportunity to file written statement on or before 15th July, 2022 is subject to deposit of cost of Rs.25,000/- in the bank accounts of the children in equal share, which shall not be withdrawn by either of parents without prior permission of the Court below.

In view of the afore-said terms, the present petition is disposed of.

9th JUNE, 2022

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*