

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

CR No.3512 of 2022

Date of decision: 31st August, 2022

Mamta Kumari

... Petitioner

Versus

Puneet Pandey

... Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Punit Malik, Advocate for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

The instant revision petition has been preferred under Article 227 of the Constitution of India for setting aside of the order dated 08.07.2022 passed by learned District Judge, Family Court, Gurugram (Annexure P-7) vide which the defence of the petitioner wife was struck off in the petition under Section 13(1)(IA) of Hindu Marriage Act, 1955 (hereinafter referred to as, 'the Act') filed by the respondent husband.

Learned counsel for the petitioner *inter alia* contends that the petitioner appeared before the Family Court through her counsel on 22.10.2021 and filed an application under Section 24 of the Act and thereafter the case was adjourned for filing of written statement to the main petition as well as application under Section 24 of the Act. The case was adjourned on multiple occasions however, both the parties

were unable to file written statement on account of the restricted functioning of the Courts due to the outbreak of the pandemic COVID-19. Still further, it is submitted that the learned Family Court has failed to appreciate the fact that before filing of written statement in the divorce petition filed by the husband, the application of the petitioner wife under Section 24 of the Act should have been decided as the husband is not paying even a single penny to the wife and minor child. Learned counsel further submits that since the petitioner is not well versed with the nitty gritty of the Court proceedings, a lenient view be taken, coupled with the fact that the Hon'ble Apex Court had also been taking a lenient view and extending the period of limitation on account of the conditions subsequent to the outbreak of the pandemic. It is submitted that it was on account of the genuine reasons that the petitioner was unable to file her written statement. A prayer has, therefore, been made that a compassionate view be taken and the impugned order be set aside.

I have heard learned counsel and perused the material on record.

A perusal of the record reveals that the petitioner has indeed been negligent in pursuing the case. However, at the same time this Court is also conscious that due to the restrictions imposed subsequent to the outbreak of the pandemic COVID-19, normal life had been disrupted. In the circumstances, this Court is of the opinion that if

the petitioner is not granted one more opportunity to file her written statement, she would suffer irreparable loss which in turn would result in miscarriage of justice. Therefore, for just and proper adjudication of the case, this Court deems it appropriate to grant one last effective opportunity to the petitioner to file her written statement.

In the wake of the above, without issuing notice to the respondent, to avoid any further delay as well as expenses which the respondent shall have to incur to defend these proceedings, the impugned order dated 08.07.2022 is set aside. The instant revision petition is allowed in the following terms:-

1. The petitioner is granted one last effective opportunity to file her written statement.
2. In the event of default by the petitioner, the case shall not be adjourned any further for filing of her written statement and consequently her defence shall be deemed to be struck off.
3. This, however, shall be subject to payment of costs in the sum of ₹ 1,000/- to be paid to the respondent which shall be a condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

August 31, 2022

rps

Whether speaking/reasoned Yes/No

Whether reportable Yes/No