

112 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR(F)-954-2022 (O&M)
Date of Decision:14.10.2022

SURAJ MEHTA ... PETITIONER
VS.
MEENAKSHI DAWAR .. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Nitin Sachdeva, Advocate
for the petitioner.

VIVEK PURI, J.(ORAL)

The petitioner has assailed the order dated 14.09.2022 passed by the Court of learned Additional Principal Judge, Family Court, vide which the defence has been struck off on account of non-payment of cost and failure on his part to submit the reply despite two effective opportunities.

Learned counsel for the petitioner contends that the petitioner was suffering from high grade fever and was under-treatment. Annexure P-6 is the prescription dated 05.09.2022 and he was advised follow up after one week. Subsequently, on 14.09.2022, the petitioner was examined in the hospital with the symptoms of general weakness, cough, gastritis and pneumonia. He was also advised RT-PCR examination and prescribed medicines. The health issues of the petitioner prevented him from informing the counsel and putting appearance in the trial Court. On account of health constraints, the payment of cost to the tune of Rs.1,000/- could not be paid and even reply could not be submitted.

Learned counsel for the petitioner submits that the next date of hearing before the trial Court is 15.10.2022. After passing of the impugned order, no further effective hearing has taken place. The petitioner undertakes to deposit the cost as well as submit the reply alongwith the

affidavit, if any, in the trial Court on the next effective date of hearing.

The material on record is indicative of the fact that on account of health constraints, the petitioner could not submit the reply in the trial court and also tender the cost. Keeping in view the entire circumstances, the petitioner is granted one opportunity to tender the previous cost of Rs.1,000/- and submit the reply alongwith affidavit, if any, on the date of hearing that may be fixed by the trial Court on 15.10.2022. However, to compensate the respondent for the delay in the matter, the petitioner is burdened with additional cost of Rs.2,000/- to be paid to the respondent.

Petition is disposed of.

14.10.2022

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(VIVEK PURI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No