

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

CR-4366-2022
Decided on : 12.10.2022

Rajesh Kumar

..... Petitioner

Versus

Minaxi

..... Respondent

CORAM : HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Ajay Jain, Advocate
 for the petitioner.

Manjari Nehru Kaul, J.(Oral)

Present petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 20.04.2022 passed by Principal District Judge, Family Court, Hisar vide which his defence was struck-off.

Learned counsel for the petitioner *inter alia* contends that after the petition under Section 13 of Hindu Marriage Act was instituted by respondent-wife, notice was issued to the petitioner-husband for 21.12.2020. On 21.12.2020, respondent appeared and the case was adjourned to 07.04.2021. On that date, the petitioner was proceeded against ex parte and the matter was adjourned to 17.05.2021 for ex parte evidence of the respondent-wife. On 17.05.2021 on account of the Covid-19, the case was adjourned for 27.08.2021. On 27.08.2021, application for setting aside ex parte order was moved by the counsel for the petitioner and the case was adjourned to 12.11.2021. On the said date, application for setting aside the ex parte order was allowed subject to payment of costs of

Rs.2,000/- and the case was adjourned for 04.02.2022 for presence of the parties and for filing written statement. On 04.02.2022 case was adjourned to 20.04.2022 and on the said date, impugned order was passed. Learned counsel for the petitioner submits that the petitioner be granted one more opportunity to file the written statement otherwise, the petitioner would suffer an irreparable loss.

Heard.

No doubt, the petitioner has been negligent, however, the fact remains that in case it is not granted another opportunity to file its written statement, it could suffer irreparable loss, which in turn may result in miscarriage of justice. To settle the equity, the respondent can always be compensated with suitable costs.

Therefore, without issuing any notice to respondent and to avert any further delay, and also expenses which the respondent may have to incur to defend these proceedings, the impugned order dated 20.04.2022 is set-aside and the revision petition is disposed of in the following terms:-

- (i) The petitioner-husband shall appear and file his written statement on the next date of hearing before the trial Court.
- (ii) In the event of default, the matter shall not be adjourned and no further opportunity shall be granted to the petitioner-husband. The petitioner's defence would then be deemed to be struck-off.

(iii) This, however, shall be subject to costs of Rs. 10,000/-,
to be deposited before the trial Court, which shall be a
condition precedent.

(MANJARI NEHRU KAUL)
JUDGE

12.10.2022
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Whether speaking/reasoned:	Yes/No
Whether reportable :	Yes/No