

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Sr. No.: 115

Civil Revision No.6002 of 2022 (O&M)

Date of Decision: *December 19, 2022*

Preeti Yadav

..... PETITIONER(S)

VERSUS

Amit Kumar

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

. . .

PRESENT: - Mr. D.S. Matya, Advocate, for the petitioner.

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Tribhuvan Dahiya, J (Oral)

CM No.17888-CII of 2022

Application is allowed as prayed for.

Main Case

This is a revision petition under Article 227 of the Constitution of India for setting aside the order dated 13.05.2022 whereby defence of the petitioner-respondent has been struck off by the Family Court on account of non-filing of written statement.

A perusal of the paper book shows that the respondent appeared before the Family Court on 28.01.2022 after service of notice of the petition. Though she was represented by an Advocate before the Court, he did not file the written statement on her behalf. The case was adjourned to 04.04.2022, but on account of the Presiding Judge being on leave on the said date, it was adjourned to 13.05.2022, whereupon another counsel appeared on behalf of the respondent and the impugned order was passed striking-off her defence.

Learned counsel contends that the respondent, who was resident of District Bulandshahr, Uttar Pradesh, had to change her counsel before the Family Court. On that account, written statement could not be filed within the stipulated period. This is a *bona fide* lapse on her part.

Keeping in view the aforesaid facts and circumstances, this Court is of the view that striking-off defence of the respondent would cause serious prejudice to her in the pending litigation before the Family Court. In case, on account of change of counsel or miscommunication between the respondent and her counsel, written statement could not be filed within time, she should not be made to suffer on that account. Therefore, in the interests of justice, this Court deems it appropriate to set aside the impugned order dated 13.05.2022 to the extent respondent's defence has been struck-off therein, and permit her to file written statement within two weeks from today, subject to payment of ₹ 15,000 as costs to the plaintiff by way of Demand Draft. No further opportunity for the purpose shall be granted.

Ordered accordingly.

Disposed of.

Since the main case stands decided, all pending applications, if any, are disposed of as having been rendered infructuous.

(Tribhuvan Dahiya)
Judge

December 19, 2022
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No