

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

**CR-742-2023 (O&M)
Date of Decision: 03.02.2023**

Manju Sharma

....Petitioner

Versus

Gaurav Vashisht

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Manish Soni, Advocate
for the petitioner.

ARUN MONGA, J. (ORAL)

Present revision petition is to set aside impugned order dated 06.09.2019 (Annexure P-3) passed by learned Principal Judge, Family Court, Gurugram, whereby the defence of revisionist-wife was struck off on account of non-filing of written statement in a petition for dissolution of marriage by way of decree of divorce instituted by husband.

2. Learned counsel for revisionist submits that impugned order has resulted into grave miscarriage of justice and for effective adjudication of the case, she may be permitted to file her written statement in the interest of justice and equity.

2.1. Learned counsel further contends that rules of procedure are handmaid of justice and cannot be allowed to thwart real and substantial justice between the parties. According to learned counsel, no prejudice would indeed be caused to respondent-husband, if the revisionist is permitted to file her written statement.

3. Given the nature of order being passed, there is no necessity to issue notice to respondent herein (husband), as no prejudice would be caused to him. Notice to respondent herein is thus dispensed with.

4. I have heard learned counsel for the revisionist and gone through the case file.

5. I am of the view that provisions contained in Order 8 Rule 1 CPC, ordinarily ought to be adhered to, but learned Trial Court could have permitted to file written statement in the instant case. Provisions contained in Order 8 Rule 1 CPC, *ibid*, have been held to be directory in nature by the Supreme Court in *Salem Bar Association Vs. UOI, 2005(6) SCC 344*. Trial Courts should not, therefore, be too harsh to strike off the defence of the respondent/defendant, at very early stage.

6. Learned counsel for revisionist undertakes to file written statement on or before the next adjourned date.

7. Keeping in view the facts and circumstances of the case, I deem it appropriate to grant one more opportunity to revisionist for filing the written statement. To that extent, the impugned order is modified and the revision petition is allowed.

8. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

February 03, 2023
ashish

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No