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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****C.R NO. 2810 OF 2022 (O & M)
DATE OF DECISION: 11.05.2023****Veena Devi****... Petitioner****versus****Kuldeep Singh****...Respondent****CORAM : HON'BLE MR. JUSTICE ARUN MONGA**

Present : Mr. G. S. Dhaliwal, Advocate,
for the petitioner.

Ms. Jagriti Kalia, Advocate,
for the respondent.

ARUN MONGA, J. (ORAL)

Revision is directed against orders dated 27.04.2022 (Annexure P-1) vide which petition under Section 18 of Hindu Adoption and Maintenance Act, 1956 (for brevity "the Act") filed by petitioner was dismissed in default and for setting aside order dated 08.07.2022 (Annexure P-3), whereby application filed by petitioner for restoration of above mentioned petition has also been dismissed without obtaining reply from respondent.

2. Succinct facts first, as pleaded in the instant petition.

2.1 Petitioner has filed a petition under Section 18 of the Act before learned Court below seeking maintenance, stating that marriage of petitioner was solemnized with respondent on 15.06.1981 as per Hindu Rites and ceremonies at village Tigrana, District Bhiwani. Out of said wedlock one son was born. Whereas, respondent had filed a petition for divorce on 16.07.2012 which was dismissed by Court of learned District

Judge (Family Court), Karnal, vide judgment and decree dated 13.10.2016. Said judgment is under challenge before this Court vide FAO (M) No.671 of 2017.

2.2 Aforesaid petition under Section 18, *ibid* was dismissed in default by learned Additional Principal Judge (Family Court), Karnal vide order dated 27.04.2022 (Annexure P-1). An application for restoration of same was moved which too was dismissed vide order dated 08.07.2022 (Annexure P-3). Both the above mentioned orders have been impugned herein.

3. Learned counsel for petitioner contends that it was the learned counsel for petitioner who failed to appear before learned trial Court and there was no fault on the part of the petitioner. He further argues that petitioner is a senior citizen and unable to attend Court proceedings on each and every date. It also transpires that respondent is in arrears of maintenance and same has not been paid for the past three years.

4. On the other hand, learned counsel for respondent strenuously opposes the petition and supports the impugned orders and would argue that same is based on cogent reasons recorded by learned trial Court.

5. I have heard learned counsel for parties and have gone through the records.

6. Trite law it is that procedure is a handmaid of justice and, ought not be given precedence at the cost of subjugation of substantive justice. It is settled position in law that petitioner cannot be made to suffer for the lapse of her counsel, given that petitioner has also filed complaint

(Annexure P-4) against his counsel before the Bar Council of Punjab and Haryana High Court, Chandigarh. Prejudice would indeed be caused to revisionist/petitioner in case her petition under Section 18 of the Act is not restored.

7. In the premise, to my mind, ends of justice will be met if the instant petition is allowed, impugned orders are set-aside and petition under Section 18 of the Act is restored to its original number and stage. Ordered accordingly. Trial Court to proceed further in accordance with law.

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

May 11, 2023
Shalini

(ARUN MONGA)
JUDGE

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