

122 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 4458 of 2023(O&M)

Date of Decision: 08.08.2023

Gurdeep Singh

...Petitioner

Versus

Neha

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Sonit Sinhmar, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner herein for setting aside order dated 26.05.2023 (Annexure P-5) passed by the Court of learned Additional Principal Judge, Family Court, Sonapat in case having DMC No. 21 dated 25.02.2022 titled Neha Vs. Gurdeep Singh whereby defence of the petitioner has been struck off.

2. The counsel for the petitioner submits that aforesaid petition has been filed by Neha, wife of the petitioner under Section 9 of Hindu Marriage Act seeking decree for restitution of conjugal rights. The petitioner appeared in the said petition and filed his written statement within stipulated period and thereafter issues were framed and thereafter the matter was adjourned to explore possibility of amicable settlement but no such settlement was effected and then the petition was adjourned for payment of litigation expenses by the petitioner to his wife and finally the defence of the petitioner was struck off by the learned Family Court vide order dated 26.05.2023. The counsel for the petitioner further submits that in the main petition filed under Section 9 of Hindu Marriage Act, no order regarding

grant of maintenance was passed by the Court concerned in favour of respondent Neha and against the present petitioners. The counsel for the petitioner further submits that even the written statement was filed within time by the present petitioner and as such there was no occasion for the Court below to struck of the defence of the petitioner. The counsel for the petitioner further made prayer that he be allowed to join the proceedings before the learned Family Court at this stage as respondent Neha has yet to lead her evidence.

3. I have considered the submissions made by counsel for the petitioner.

4. In the given circumstances, as the petitioner has not defaulted in making payment of maintenance to his wife and has already filed his written statement within time, as has been stated by the counsel for petitioner, it is not clear as to under what circumstances the defence of the respondent was struck off by the learned Family Court Sonapat. So, the impugned order is hereby set aside and petitioner is permitted to join the proceedings before the learned Family Court subject to costs of Rs.7000/- which also includes the litigation expenses of respondent Neha and the same are to be paid on the next date of hearing fixed for the Family Court, by the petitioner to the opposite party.

5. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if she feels dis-satisfied with this order, she may move an application to recall the same.

08.08.2023

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**(KARAMJIT SINGH)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No