

111.

2023:PHHC:147793

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

**CR-5458-2023**

Date of decision: 21.11.2023

Rani

.... Petitioner

Versus

Mantosh

.... Respondent

**CORAM: HON'BLE MR. JUSTICE GURBIR SINGH**

Present: Mr. Radhe Shyam Sharma, Advocate, for the petitioner.

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**GURBIR SINGH, J. (Oral)**

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 21.11.2022 (Annexure P-1) passed by learned Principal Judge, Family Court, Sonipat, whereby the defence of the petitioner-wife has been struck off due to non-filing of written statement.

2. The brief facts, as culled out from the petition, are that petitioner and respondent solemnized marriage on 28.02.2019. Out of said wedlock, a son was born to her on 25.11.2019. However, due to matrimonial differences and rude behaviour of the respondent-husband, she started living with her parents along with her son. She filed a case for maintenance and under the DV Act. An FIR was also lodged. Respondent-husband filed a petition for the custody of minor child. Petition under Section 13(1)(i-a) of Hindu Marriage Act for dissolution of marriage has also been filed by the respondent.

3. In the case of custody of minor, the defence of the petitioner-wife was struck off vide order dated 21.11.2022 passed by learned Principal Judge, Family Court, Sonapat and against the said order, petitioner approached this Court by way of Civil Revision No.2576 of 2023, which was allowed vide order dated 29.04.2023. Simultaneously, in the divorce petition, her defence to file written statement was also struck off vide order dated 21.11.2022, which has been challenged by way of present revision petition.

4. Learned counsel for the petitioner submits that the petitioner-wife would be satisfied if one opportunity is granted to her to file written statement and she would not seek any other opportunity. The case before the learned Family Court is fixed for hearing on 06.12.2023.

5. I have heard the submissions of learned counsel for the petitioner and have gone through the paper book.

6. Keeping in view the fact that the procedure is handmaid to the administration of justice and it is meant for advancement of justice; the petitioner should not be non-suited merely on procedural technicalities.

7. If notice of this petition is given to the respondent, then it may linger on the case and may cause financial burden on him.

8. So, in the interest of justice, the impugned order dated 21.11.2022 (Annexure P-1) is set hereby set aside and present petition is disposed of with a direction to the Family Court, Sonipat to give one opportunity to the petitioner-wife to file written statement. She shall file the written statement on the date fixed i.e. 06.12.2023. In case of default, this order shall automatically stand vacated.

9. If the respondent-husband is not satisfied with this order, he can move an application for recalling of this order within 30 days.

**(GURBIR SINGH)**  
**JUDGE**

**November 21, 2023**  
sanjeev

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