

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARHCR- 6039 of 2023(O&M)  
Date of Decision: 10.10.2023

Pooja

...Petitioner

Versus

Rajesh Kumar

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

Present:- Ms. Anu Garg, Advocate  
For the petitioner.

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KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner/ wife against the order dated 18.11.2021 (Annexure P-1) whereby the defence of the petitioner was struck off as the petitioner failed to file written statement and order dated 17.07.2023 (Annexure P-2) whereby an application filed by the petitioner to set aside *ex-parte* proceedings against her has been partly allowed by the Court of Principal Judge, Family Court, Bhiwani in DMC Case No. 196 of 2020 titled Rajesh Kumar Vs. Pooja and the petitioner was allowed to cross-examine the witnesses already examined during *ex-parte* proceedings but the petitioner was disallowed from filing written statement.

2. The counsel for the petitioner submits that matrimonial dispute is going on between the parties and respondent/ husband filed petition under Section 13 of the Hindu Marriage Act in 2020 and its notice was received by the petitioner but it being Covid period, the petitioner failed to file written statement within the stipulated time period and finally the defence of the

petitioner was struck off on 18.11.2021 vide order (Annexure P-1) and thereafter the petitioner was proceeded against *ex-parte* vide order dated 21.04.2022 (Annexure P-4) but subsequently the *ex-parte* proceedings were set aside by the Court concerned vide order dated 17.07.2023 (Annexure P-2) and is permitted to cross-examine the witnesses of the respondent already examined during the *ex-parte* proceedings. The counsel for the petitioner further submits that the petitioner is going to suffer grave *prejudice* if the petitioner is not allowed to file written statement. So, prayer is made that the petitioner be given one opportunity to file the written statement before cross-examining the witnesses of the respondent.

3. The defence of the petitioner was struck off vide order dated 18.11.2021. At that time there was restricted working due to Covid-19. The Court has to advance substantive justice and procedural technicalities should not be given precedence over the substantive justice. Admittedly, the trial Court has already set aside the *ex-parte* proceedings against the petitioner and has given permission to the petitioner to cross-examine the witnesses earlier examined on behalf of the respondent. In the given circumstances, no *prejudice* is going to be caused to the respondent in case the petitioner is given permission to file her written statement as the same is also required for proper adjudication of the divorce petition.

4. Consequently, in the interest of justice, the instant revision petition is allowed and impugned order Annexure P-1 is set aside and impugned order Annexure P-2 is modified and the petitioner is granted one opportunity to file her written statement by the next date fixed subject to costs of Rs.3000/- to be paid by the petitioner to the other party.

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

**10.10.2023**  
Jiten

**(KARAMJIT SINGH )**  
**JUDGE**

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