

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

127

CR-1118-2024 (O&M)
Decided on: 21.03.2024

Naveen @ Naveen Kellay

...Petitioner

Versus

Preeti

...Respondent

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Mahir Sood, Advocate and
Mr. Ashutosh Gupta, Advocate
for the petitioner.

RITU TAGORE, J.

1. This revision is for setting aside order dated 19.10.2023 (Annexure P-13) passed by learned Additional Principal Judge, Family Court, AD&SJ, Panipat wherein learned Court struck off the defence of the petitioner (respondent before the learned trial Court) in a petition bearing No.331-2022 (DMC-721-2022) captioned as 'Preeti Vs. Naveen', with further prayer to allow and grant one opportunity to the petitioner to file written statement in the aforementioned petition.
2. Considering the limited prayer made in this revision, notice to respondent is dispensed with.
3. Learned counsel for the petitioner submits that with passing of the impugned order, he has been prevented from filing his written statement in a petition for divorce filed by the respondent (wife) under Section 13 of

Hindu Marriage Act, 1955. The learned counsel states that one opportunity be given to the petitioner to file his written statement, failing which he shall suffer irreparable loss.

4. I have heard the learned counsel for the petitioner and gone through the paper book.

5. Perusal of the paper book shows that respondent has filed a petition for divorce under Section 13 of Hindu Marriage Act, 1955 on account of desertion and cruelty. The paper book also reveals that the petitioner has also filed a petition under Section 10, 12 and 25 of Guardian and Wards Act, 1890 as well as a petition under Section 9 of Hindu Marriage Act. The respondent has also filed a petition under Section 125 Cr.P.C. against the petitioner. Perusal of the zimni orders (Annexure P-5 to P-8, P-10 & P-11, P-13) indicate that the petitioner failed to file written statement despite availing number of opportunities.

6. Although, I find that there has been inaction on the part of the petitioner in not prosecuting the litigation with due diligence but still it could not be suggested that delay has been caused by the petitioner for any *mala fide* reasons. It is well established that the Court should adopt a liberal approach and rights of the parties should be adjudicated on the merits of the controversy rather thwarting the same on rigid technicalities.

7. It is trite that all rules of procedure are the handmaid of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Furthermore, the counsel on behalf of the petitioner undertakes to present his written statement in one opportunity. The delay can always be atoned by imposing costs.

8. In circumstances to do complete justice between the parties, I believe that one effective opportunity should be given to the petitioner to file his written statement. Accordingly, impugned order dated 19.10.2023 (Annexure P-13) is set aside, subject to payment of Rs.10,000/- as costs by the petitioner to the respondent.
9. The counsel for the petitioner has submitted that scheduled date of hearing before the learned Additional Principal Judge Family Court is fixed for today. Petitioner is directed to appear before learned trial Court on due date of hearing as fixed by the learned Family Court or within 20 days thereafter, positively and file his written statement and tender the costs to the respondent. In case of default, this order shall stand automatically vacated.
10. Respondent if not satisfied with this order, may move an application for recalling of this order within 30 days.
11. Accordingly, revision petition is disposed of.
12. Pending applications, if any, also stands disposed of accordingly.

(RITU TAGORE)
JUDGE

21.03.2024
Rimpal

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