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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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Date of Decision: 28.02.2024.

Manjeet Kaur ...Petitioner.

Versus

Baljeet Singh and othersRespondents.

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. M.S. Uppal, Advocate
for the petitioner.

Sukhvinder Kaur, J.

By way of present revision petition, the petitioner has challenged order dated 03.11.2022 (Annexure P1) passed by learned Trial Court, vide which the defence of the defendant/ petitioner was struck off.

2. The brief facts relevant for the adjudication of the present revision petition are that the plaintiff/ respondent No.1-Baljit Singh filed a suit before the trial Court for mandatory injunction for directing the petitioner/ defendant No.1 not to live in illicit, immoral, illegal and adulterous relationship due to which reputation and honour of the plaintiff and his family was getting spoiled and they were suffering from mental pain and agony with consequential relief of permanent injunction not to indulge in the said activities and not to spoil reputation of the plaintiff and his family and not lodge false and frivolous litigation against the plaintiff and

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his family members and not to take the minor children, namely, Amninder Singh and Jaismeen Kaur along with her without the consent or permission of the plaintiff except in due course of law.

3. Notice of the suit was issued to the petitioner/ defendants and the case was adjourned to 01.08.2022 for filing written statement and for reply of the stay application by the petitioner/ defendants. Thereafter, the case was adjourned to 03.10.2022 and 03.11.2022 for the said purpose and last opportunity was granted for the same. Then on 03.11.2022, the defence of the defendants was struck off and the case was adjourned to 10.01.2023, for the evidence of the plaintiff.

4. Aggrieved by the said order, the present revision petition has been filed by the petitioner before this Court.

5. Learned counsel for the petitioner has contended that after receiving summons from the Court at Ambala, the petitioner/ defendant No.1 and performa respondents No.2 to 5 went to Ambala and engaged their counsel and requested him to appear on their behalf to defend the case and also handed over all the necessary documents to him. Thereafter, they kept visiting their counsel at Ambala Court but every time it was told by the counsel that the evidence had not started as yet. In the meantime, petitioner/ defendant No.1 also filed one divorce petition before the Court at SAS Nagar, Mohali through her counsel, who checked the status of the case pending at Ambala and then it was found that defence of the petitioner/ defendants had been struck off vide order dated 03.11.2022. He has further argued that if the impugned order dated 03.11.2022 is not set aside and

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opportunity is not granted to the defendants to file written statement, in that eventuality the petitioner/ defendants shall suffer irreparable loss and injury, as she had been thrown out of her matrimonial house and has been forced to live with her parents and she is living at their mercy and has prayed that the impugned order may be set aside.

6. I have heard learned counsel for the petitioner and have gone through the relevant record.

7. From the record, it emanates that the petitioner/ defendants failed to file the written statement and reply to the stay application despite availing the number of opportunities. So in these circumstances, defence of the petitioner/ defendants was struck off vide order dated 03.11.2022. Though there is no infirmity in the impugned order, yet it will be appropriate and in the interest of justice, if one effective opportunity is afforded to the petitioner/ defendants for filing written statement and reply to the stay application, because if defendants are not allowed to defend the suit, it will adversely effect their case. Otherwise also all the rules are the handmaid of justice and the object of procedural law is to advance the cause of justice. No purpose is likely to be served by issuing notice of this petition to the respondents as it will result in unnecessary delay. Considering all these aspects, the impugned order is set aside, subject to cost of Rs.10,000/-. The trial Court is directed to grant one effective opportunity to the petitioner/ defendants to file written statement and reply to the stay application, subject to payment of costs of Rs.10,000/- to the respondent/ plaintiff.

8. Revision petition is allowed in the aforesaid terms.

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9. All pending applications, if any, also stand disposed of accordingly.

(SUKHVINDER KAUR)
JUDGE

28.02.2024.
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Whether speaking/ reasoned : Yes/ No
Whether Reportable : Yes/ No