

131.

2024:PHHC:004988

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

CR-6623-2023

Date of decision: 15.01.2024

Bittu

... Petitioner

Versus

Smt. Reena

... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Ritesh Tomar, Advocate, for the petitioner.

GURBIR SINGH, J.(Oral)

1. Challenge in this revision petition filed under Article 227 of the Constitution of India is to the order dated 19.09.2023 (Annexure P-6) passed by learned Additional Principal Judge, Family Court, Gurugram, whereby the defence of the petitioner to file written statement has been struck off.

2. Briefly stated, the respondent-wife has filed a petition under Section 13(i)(a) of the Hindu Marriage Act, 1955 for a decree of divorce. Notice in the petition was issued to the petitioner-husband vide order dated 21.07.2022. Though the petitioner-husband appeared but despite availing number of opportunities, he did not file written statement and ultimately, vide order dated 19.09.2023, his defence to file written statement was struck off. Now the said case is stated to be pending for 19.02.2024 for the evidence of respondent.

3. Learned counsel for the petitioner submits that due to ill-health of his mother, the petitioner could not file written statement and other relevant documents which are necessary for the just decision of the case, well in time. Now by way of present revision petition, he seeks one opportunity for the same.

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

5. Though there is some inaction on the part of the petitioner as despite availing numerous opportunities including last opportunity, he has not filed the written statement, but keeping in view the fact that procedure is handmaid to the administration of justice and it is meant for advancement of justice, petitioner should not be non-suited merely on procedural technicalities and no prejudice would be caused to the respondent if one opportunity is given to the petitioner as other party can be compensated with costs, so the impugned order deserves to be set aside.

6. Notice of this petition is not being issued to the respondent, as it may linger on the case and may cause financial burden on her.

7. In view of above, the order dated 19.09.2023 (Annexure P-6) is hereby set aside and one opportunity is granted to the petitioner-husband to file written statement and other relevant documents which he wants to rely upon, however, that would be subject to payment of costs of Rs.5,000/- to be paid to the respondent-wife. The petitioner-husband

shall file the written statement on the date so fixed before the learned Family Court and in case of default, this order shall automatically stand vacated.

8. Present petition stands disposed of accordingly.

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

(GURBIR SINGH)
JUDGE

January 15, 2024

sanjeev

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No