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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **CM(M) 138/2024**

BHARTI VERMA

..... Petitioner

Through: Mr. Arunesh Sharma, Adv.

versus

ADITYA DUDEJA

..... Respondent

Through: Mr. Rajeev Sharma, Adv.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

% **23.01.2024**

CM APPL. 4296/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 138/2024, CM APPL. 4297/2024--stay

3. The present petition under Article 227 of the Constitution of India, 1950 has been filed impugning the order dated 08.08.2023 in HMA No. 122/2023 passed by learned Judge, Family Court, Patiala House Courts, New Delhi whereby the right to file written statement of the respondent was closed. The petitioner herein is the respondent before the learned Trial Court.
4. It is submitted by the learned counsel for the petitioner that there was a delay of 73 days in filing the written statement, hence, the learned Trial Court did not permit the written statement of the petitioner herein to form part of the record. It is submitted that the applications moved by the petitioner on 09.08.2023 seeking condonation of delay of 73 days in filing the written statement under Order XXXVIII Rule 1 CPC and recalling the



order dated 08.08.2023 under Section 151 CPC were dismissed vide order dated 03.11.2023. Learned counsel for the petitioner vehemently submitted that if the petitioner is not allowed to place his written statement on record, it will adversely affect petitioner's defence and would be against interest of justice. Learned counsel for the petitioner presses upon recalling the order dated 08.08.2023.

5. Issue notice.

6. Learned counsel appearing on advance notice, accepts notice on behalf of the respondent. It is submitted that he has no objection if the petition is allowed subject to cost, however, the petitioner should ensure that no delay is caused by taking unnecessary adjournments in the divorce proceedings pending before the learned Trial Court.

7. In view of the above submissions, as well as in the interest of justice, the written statement of the petitioner is allowed to be taken on record subject to cost of Rs. 10,000/- to be paid to the respondent herein tomorrow. It is stated that the matter is listed tomorrow before the learned Trial Court. It is further directed that the petitioner herein shall not delay the proceedings of the case by taking unnecessary adjournments before the learned Trial Court.

8. Accordingly, the present petition along with pending application is disposed of.

SHALINDER KAUR, J.

JANUARY 23, 2024
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