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

% ***Date of decision: 05th July, 2024***

+ **CM(M) 2376/2024**

SMT SHARMILA SINGHPetitioner

Through: **Mr. V S Dubey with Mr. Mandeep Kumar, Advocates.**

versus

MASTER ABHIMANYU SINGH & ANR.Respondents

Through: **Mr. Nitin Arora, Advocate.**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM(M) 2376/2024 & CM APPL. 37044/2024 (early hearing)

1. The present petition i.e. CM (M) 2376/2024 has been filed under Article 227 of the Constitution of India. It impugns order dated 01.03.2024, whereby, the defence of petitioner has been struck off.
2. This petition was earlier taken up on 15.05.2024 and the petitioner was directed to effect service upon the respondents through all permissible modes, returnable 08.11.2024.
3. In the meanwhile, the instant application seeking early hearing has been moved by the petitioner.
4. With the consent of both the parties, the main matter, as such, is also



taken up today for arguments. Therefore, the application seeking early hearing stands disposed of as allowed.

5. The attention of the Court has been drawn towards the impugned order dated 01.03.2024 wherein it is observed that the petitioner herein was required to file amended written statement within 15 days of 04.01.2024, but she filed the written statement beyond the stipulated period. Learned Trial Court also noted that she had also not filed the *Affidavit of Income and Assets*, despite granting two weeks. Holding that the intention of the petitioner was merely to delay the proceedings and that she was not repeatedly complying with the direction of the Court, her defence was directed to be struck off.

6. The matter is now reportedly listed on 20.07.2024 for order on interim maintenance.

7. Learned counsel for the respondent (Master Abhimanyu) does not dispute that written statement was filed, *albeit*, belatedly. However, at the same time, he submits that he has not even received copy of written statement so far. Learned Counsel for the petitioner has assured that the copy of written statement would be supplied to the learned counsel for respondent today itself. It is also assured that the *Affidavit of Income and Assets* of the petitioner would also be filed before learned Trial Court within one week from today along with all the requisite documents.

8. Keeping in mind the overall facts and circumstances of the case, the impugned order is found to be harsh. Instead of striking off the defence, the learned Trial Court could have compensated the plaintiff by directing imposing of some reasonable cost.



9. The petition is hereby allowed and impugned order striking off defence of petitioner is set aside.
10. Resultantly, the petitioner is permitted to participate in the proceedings before the learned Trial Court.
11. As undertaken, the aforesaid Affidavit along with the requisite documents be filed within one week from today with advance copy to the opposite side.
12. However, for causing delay in the proceedings, the petitioner herein is burdened with cost of Rs. 10,000/- which would be paid to the opposite side before the learned Trial Court on the next date.
13. It is expected that learned Trial Court, in view of the aforesaid development, would hear the petitioner herein also on the question of grant of interim maintenance, before passing any order.
14. The next date of 08.11.2024 is cancelled.
15. Order *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

JULY 5, 2024/sw