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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 30th September, 2024***
+ CM(M) 3512/2024 & CM APPL. 57419-57420/2024
KOHILIKA @ KUHILPetitioner
Through: Mr. Vibudh Singh with Mr. Mukesh
Rajput, Advocates.

versus
ANUBHAV SAXENARespondent
Through: Mr. Balram Singh, Advocate.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN
JUDGMENT (oral)

1. Petitioner is defending a divorce petition filed by her husband.
2. Initially, the summons were issued on 20.12.2023 and, thereafter, the learned Judge, Family Court directed fresh issuance of summons vide order dated 31.01.2024.
3. Pursuant to the same, learned counsel for the petitioner herein appeared before the learned Trial Court on 27.03.2024 for the first time and at his request, a complete set of petition and documents was supplied to him.
4. There was a direction to the petitioner to file written statement within four weeks. However, the written statement was not filed within such period of four weeks and when the matter was taken up by the learned Trial Court on 24.05.2024, the learned Judge, Family Court gave her one more opportunity, *albeit*, subject to cost of Rs. 2,000/-.
5. It seems that despite grant of such opportunities, the petitioner did not file any written statement within the stipulated period which resulted in the



impugned order whereby the learned Trial Court has closed her right to file written statement and her defence has also been struck-off.

6. Such order dated 02.08.2024 is under challenge.

7. Learned counsel for petitioner states that the written statement was duly filed through electronic mode on 01.08.2024 but somehow, such fact could not be properly apprised to the learned Trial Court. It is also informed by the learned counsel for petitioner herein that after such e-filing, the hard copy was also submitted with the filing counter of the learned Family Court.

8. During course of arguments, Mr. Balram Singh, learned counsel for the respondent/husband admits that he had received the copy of such written statement, *albeit*, on 02.08.2024.

9. Learned counsel for the respondent states that though the petitioner should have been vigilant and should have submitted the written statement within the time given by the learned Trial Court, particularly, when she had been given litigation expenses to the tune of Rs. 11,000/-, he would have no objection if the petition is allowed, *albeit*, subject to imposition of heavy cost.

10. Keeping in mind the overall facts and circumstances of the case and also in view of the fact that it happens to be a petition seeking divorce and in such type of matters, the endeavour should be to consider the matters on merits instead of disposing of the same on technical aspects and in *ex-parte* manner, the written statement which has been stated to have been filed through electronic mode and, later on, claimed to have been filed with the filing counter, is permitted to be taken on record, subject to further cost of Rs.



5,000/-.

11. The next date before the learned Trial Court is stated to be 22.11.2024.

12. The respondent herein would be at liberty to file replication, if any, with advance copy to the opposite side and the petitioner would clear the cost on the date fixed before the learned Trial Court. The previous unpaid cost, if any, be also cleared by the petitioner.

13. The learned Trial Court would, thereafter, proceed further with the matter in accordance with law.

14. It is, however, clarified that petitioner herein would not be entitled to seek any further unnecessary adjournment from the learned Trial Court and this Court expects that she would render her best assistance and cooperation so that the above said petition is disposed of by the learned Trial Court, as expeditiously as possible.

15. The petition stands disposed of in the aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 30, 2024/sw