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

% ***Date of Decision: 4th October, 2024***

+ **CM(M) 3542/2024 & CM APPL. 58528/2024**

ISHA TANWAR

.....Petitioner

Through: **Mr. Ashok Baisoya, Advocate**
(Through VC)

versus

DINESH LOHIA

.....Respondent

Through: **Ms. Gurmeet Kaur Kapur, Advocate**
(Through VC)

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner Ms. Isha Tanwar is defending a divorce petition filed by her husband.
2. During course of the pendency of the aforesaid divorce petition, she was burdened with cost of Rs. 2,500/- as she had not filed her written statement within initial period of 30 days granted by the learned Trial Court.
3. Accordingly, she was granted seven days' time to file written statement, subject to cost of Rs. 2,500/-. Such order was passed by the learned Family Court on 22.01.2024.
4. Though the written statement was submitted on record but cost was not cleared which compelled the learned Trial Court to direct the written statement to be taken off the record. This is reflected from order dated 12.07.2024.
5. Present petition has been filed challenging the aforesaid order.
6. Fact, however, remains that things did not stop there, as thereafter,



when the matter was taken by the learned Trial Court on 07.09.2024, learned Trial Court also closed the right of the petitioner herein to cross-examine her husband.

7. Copy of such order dated 07.09.2024 has also been shown during the course of the arguments.

8. On the asking of this Court, a message was conveyed to learned counsel for respondent/husband to join the proceedings and Ms. Gurmeet Kaur Kapur has joined the proceedings through videoconferencing.

9. A careful perusal of various orders passed by learned Trial Court, from time to time, would indicate that there is no illegality or perversity in any of the order.

10. Petitioner herein is herself to be blamed for her miseries as for the reasons best known to her, she did not clear a meagre cost of Rs. 2,500/-, despite the fact that she has been getting maintenance from her husband @ Rs. 35,000/- per month.

11. On being asked further, Ms. Gurmeet Kaur Kapur, learned counsel for respondent stated that she has no intention to delay her own matter and without prejudice to her rights and contentions, she would have no objection if one last opportunity is granted in this regard to the petitioner, *albeit*, subject to further imposition of cost.

12. Learned counsel for the petitioner states that he is ready to clear the unpaid cost of Rs. 2,500/- and is also ready to bear any other cost to be imposed by this Court. He also does admit that it would have been appropriate for the petitioner to have cleared the cost in the beginning itself.

13. This Court is mindful & cognizant of the fact that the petition in question seeks divorce and, therefore, it will be appropriate if the decision is



based on merits instead of being *ex parte*.

14. Keeping in mind the overall facts and circumstances of the case and also the gracious concession given by learned counsel for respondent, present petition is disposed of with the direction that the written statement already filed by the petitioner would be assumed to be on record subject to the condition that the petitioner clears the unpaid cost of Rs. 2,500/- and also the additional cost of Rs. 20,000/- on the date fixed before the learned Trial Court i.e. 16.10.2024.

15. Once such cost is cleared, learned Trial Court would permit her to cross-examine the petitioner on any date in this regard to be fixed by the learned Trial Court. Needless to say, thereafter, petitioner herein would also be permitted to lead her own evidence in defence.

16. However, it is clarified that in future, the petitioner herein would not seek any unnecessary adjournment from the learned Trial Court and it is expected that she would render best co-operation and assistance to the learned Trial Court so that petition in question is disposed of as expeditiously as possible.

17. The petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

OCTOBER 04, 2024/dr