



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

**CR-5139-2024 (O&M)
Date of Decision: 21.03.2025**

Nandita Chaturvedi

....Petitioner

Versus

Kunal Sharma

....Respondent

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ajay Singh, Advocate and
Ms. Mehak Chadha, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL).

CM-3474-CII-2025

The application is allowed as prayed for subject to all just exceptions.

Document Annexure P-4 is taken on record.

CR-5139-2024

The present revision petition is directed against the order dated 13.12.2022 (Annexure P-1) passed by the Court of learned Additional Principal Judge, Family Court, Gurugram vide which, in a petition filed by the respondent under Section 13 of the Hindu Marriage Act, 1955 (for short 'HMA'), the defence of the petitioner was struck off.

2. The facts, as emanating from the revision petition, are that a petition under Section 13 of the HMA for dissolution of marriage was filed by the respondent (Kunal Sharma) against the present petitioner. Vide order dated 13.12.2022, the defence of the petitioner was struck off, on account of reply not having been filed, leading to the filing of the present revision petition.

3. I have heard learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that the impugned order is not sustainable. He submits that only two dates after the petitioner had put in appearance, the defence was struck off and that too without any reasonable justification. He has referred to the interlocutory orders placed on record.

5. I have considered the submissions made by learned counsel for the petitioner and have perused the file.

6. The impugned order was passed on 13.12.2022 and the present revision petition was filed in August 2024 i.e more than one and a half years after the passing of the impugned order. Be that as it may, the impugned order is palpably illegal and erroneous and, therefore, deserves to be set aside. The interlocutory orders show that the petition was instituted on 12.04.2022 and notice was issued for 14.07.2022. On 14.07.2022, the present petitioner put in appearance. It was stated that there were chances of a compromise as a result of which, the matter was referred for mediation for 20.07.2022 and the case was adjourned to 13.12.2022 for awaiting report and in case of failure of mediation proceedings, for filing of written statement. On 13.12.2022, it was observed by the Family Court, Gurugram that despite having availed several opportunities, reply had not been filed. Orders dated 14.07.2022 and 13.12.2022 read as under:

“Order dated 14.07.2022

Memo of appearance filed on behalf of respondent. Written Statement not filed. However, counsel for both the parties have requested that there are chances of compromise between the parties and the case be sent for Mediation. In view of the submission made before the Court reference of the present case is made to the Mediation and Conciliation Centre, Gurugram for 20.07.2022 for exploring the possibility of mediation between the parties for arriving at an amicable settlement in order to resolve the dispute. Mediation referral be sent to the Mediation Centre well in time. Report of the mediator be awaited for 13.12.2022, failing which for filing written statement as well as power of attorney by respondent.

Order dated 13.12.2022

Reply is not filed. Adjournment sought, Perusal of file Shows that several opportunities have been granted to the respondent yet reply is not filed and mandatory period is also expired. No justification has been shown by the respondent for filing the reply. Therefore, there is no justification to adjourn the case for the same purpose. Therefore, the defence of respondent is hereby struck off. From the pleadings of the parties following issues are framed for the determination: -

1. Whether the petitioner is entitled for decree of divorce on the grounds mentioned in the petition? OPP

2. Relief.

No other issue is pressed or claimed by the learned counsel for the parties. Onus is not objected to. To come up on 07.08.2023 for evidence of the petitioner, at own responsibility, parties are shall file PF, DM and list of the witnesses etc., if any, within seven days, falling which they shall bring the witnesses at own responsibility.”

7. A bare perusal of the orders show that the Court was not justified in striking off the defence of the petitioner and should have granted another opportunity for filing of reply. From where the Court gathered that several opportunities had been granted for filing reply is not known.

8. In any case, the order being illegal is not sustainable. Accordingly, the present revision petition is allowed and the impugned order is set aside. The Court concerned is directed to give an opportunity to the petitioner to file her written statement and then proceed in accordance with law.

(VIKRAM AGGARWAL)
JUDGE

21.03.2025

Prince Chawla

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.