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

+ **CM(M) 3587/2024**

VISHAKHA SINJANI

.....Petitioner

Through: Mr. Anwesh Madhukar & Ms. Prachi
Nirwan, Advocates along with
petitioner in person.

versus

AMRIT KUMAR

.....Respondent

Through: Mr. M. Abhijnan & Ms. Vasudha
Saini, Advocates

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **28.01.2025**

CM(M) 3587/2024 & CM APPL. 59702/2024 STAY

1. This is a petition under Article 227 of the Constitution of India, impugning the order dated 04.09.2024, passed by the learned Family Judge, Patiala House Courts in HMA No. 1151/2023, thereby, closing the right of the petitioner to file written statement.
2. The factual background is that respondent originally filed a petition under Section 13(1) (ia) & (ib) of the Hindu Marriage Act against the petitioner in Gurugram, Haryana. Petitioner filed a Transfer Petition before the Hon'ble Supreme Court. The Supreme Court vide its order dated 04.10.2023, transferred the case to Family Court, Patiala House.
3. Upon transfer, the matter was first listed before the Family Court, Patiala House on 28.11.2023. On 14.05.2024, learned Family Court referred both the parties for counselling, but the counselling failed on 04.06.2024.



4. The learned Family Court vide order dated 04.06.2024, directed the petitioner to file written statement within a period of six weeks. However, the said direction was not complied with and therefore on the next date i.e. 04.09.2024, Family Court was constrained to close the petitioner's right to file the written statement.

5. Learned counsel for the petitioner submits that petitioner is residing at Bhagal Pur, Bihar and due to geographical distance, she could not engage a lawyer in Delhi. It is submitted that even though the petitioner did appear with a lawyer on the date of passing of the impugned order, she did not understand that the written statement was to be filed within six weeks. It is also submitted that the father of petitioner has been suffering from ill-health and the said factor also contributed to the delay in filing the written statement.

6. *Per contra*, petition has been opposed by the learned counsel appearing on advance notice on behalf of the respondent submitting that petitioner was duly represented through an Advocate before the Court and that she did not file the written statement with a view to delay the adjudication of the case.

7. Learned counsel for the petitioner states that the written statement is ready and he needs only one opportunity to file the same. He undertakes that in case petitioner is granted an opportunity to file the written statement, he would file the same before the trial court on the date fixed i.e. 30.01.2025.

8. Learned counsel for the petitioner submits that subject to payment of cost, she has no objection, in case the petitioner is granted one more opportunity to file the written statement.



9. In family disputes, the Family Courts have to be more liberal and the stringent test, as may be applicable to commercial disputes, cannot be applied. Closing of the right to file written statement would result in grave personal consequences to the party concerned. The approach of the Family Court has therefore to be guided by the object of the Family Court Act rather than the technicality of law.

10. Hence, keeping in view the entire facts and circumstances and the submissions made and in particular the submission of the learned counsel for the petitioner undertaking to file the written statement on 30.01.2025, in the interest justice, with a view that the *lis* between the parties be decided on merits rather than technicalities, the impugned order dated 04.09.2024, insofar as it strikes of the defence of the petitioner, is set aside subject to a cost of Rs. 10,000/- with the condition that petitioner shall file her written statement before the Family Court on 30.01.2025 and shall not seek any further adjournment for filing the same.

11. Since the divorce petition is pending for the last more than two years and is still at an initial stage, the learned Family Court is requested to make all possible endeavour to expedite the disposal of the petition. Learned counsels for the parties are also requested to render their due cooperation to the trial court.

12. Petition is accordingly disposed of in terms of the aforesaid order.

RAVINDER DUDEJA, J.

JANUARY 28, 2025

RM