

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

**CR-5664-2022 (O&M)
Decided on:-05.12.2022**

Smt. Simrit Gulani

....Petitioner..

vs.

Anil Gulani

....Respondent.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Punit Malik, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

By way of present revision petition, challenge has been made to an order dated 01.10.2022 passed by the Court of learned Principal Judge, Family Court, Gurgaon, whereby defence of petitioner-wife has been ordered to be struck off.

2. Brief facts of the case are that, respondent-husband filed a petition under Section 13(1) (ia) of the Hindu Marriage Act, 1955, seeking decree of divorce against petitioner-wife on the ground of cruelty before the learned trial court on 05.03.2021.

3. Upon notice, petitioner-wife appeared on 26.04.2022 and sought time for filing of written statement to the divorce petition as well as to file reply to application for grant of interim custody of the minor child. On the next date i.e. 05.08.2022, petitioner-wife sought further time for the purpose of filing written statement as well as reply to application, but the same could not be done and on the next date fixed thereafter i.e. 01.10.2022, the court below ordered for striking off her defence.

4. It is the aforesaid order dated 01.10.2022, which has now been

impugned by way of present revision petition.

5. Learned counsel for the petitioner submits that no sufficient opportunity was ever granted to petitioner-wife for the purpose of filing of her written statement. He also submits that in the absence of sufficient opportunity having been granted to petitioner-wife, she would not be able to contest her substantial rights involved in the divorce petition including those pertaining to the custody of minor child.

6. I have heard learned counsel for the petitioner and gone through the paper book. I find substance in the submissions made on behalf of the petitioner.

7. From a perusal of zimni orders attached along with the present revision petition, one can see through that petitioner-wife was never afforded sufficient and adequate opportunity to file her written statement. Non-granting of adequate and sufficient opportunity to petitioner-wife for the purpose of filing of her written statement would cause substantial prejudice to her rights, involving her matrimonial dispute, including the custody of the minor child. In the matrimonial litigation, the dispute is primarily relating to the human relationship, which ultimately not only affects the two families but the society at large as well and thus, the standard of strict applicability of the procedure needs to be avoided and instead of adopting hyper-technical approach, the courts are required to be more practical while dealing with such kind of litigation.

8. In view of the aforesaid discussion, the order dated 01.10.2022 passed by the court of learned Principal Judge, Family Court, Gurugram is set aside, consequently, present revision petition is allowed by granting one effective opportunity to petitioner-wife to file written statement as well as reply to the application for grant of interim custody of the minor child

before the court below.

9. Keeping in view the nature of proceedings, the present petition is being disposed off without issuing notice to the respondent-husband, in order to avoid unnecessary delay in the proceedings pending before the court below, initiated at his instance.

10. Pending application(s), if any, shall also stand disposed of.

05.12.2022

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(HARKESH MANUJA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/ No