



2026:DHC:8115



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

Date of decision: 21.09.2026

CNR No. DLHC010583102023

+ CM(M) 69/2024, CM APPL. 1945/2024 (Stay) & CM APPL. 1947/2024 (Ex. From filing lengthy synopsis and list of dates)

SHABNAM KHAN

.....Petitioner

Through: Appearance not given

versus

SARFRAZ ANSARI

.....Respondent

Through: Appearance not given

CORAM:

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

%

JUDGEMENT (Oral)

1. The present Petition has been filed under Article 227 of the Constitution of India [**“the Constitution”**], assailing the Order dated 25.08.2023 [**“Impugned Order”**] passed by the learned Judge, Family Court-01, Shahdara, Karkardooma Courts, Delhi [**“learned Trial Court”**] in ML No. 57/2019, whereby the learned Trial Court has allowed the application filed by the Respondent under Order IX Rule 7 read with Section 151 of the Code of Civil Procedure, 1908 [**“CPC”**], and, consequently, condoned the delay in filing the Written Statement and took the same on record.

2. Learned counsel for the Petitioner submits that the aforesaid Application dated 15.05.2023, seeking setting aside of the Order dated

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07.12.2022, was filed after a delay of 174 days and that the learned Trial Court erred in condoning the said delay. It is contended that, having regard to the substantial delay in approaching the learned Trial Court, the Respondent was not entitled to the indulgence granted by the Impugned Order.

3. No other ground was pressed into service by the learned counsel for the Petitioner while impugning the Order passed by the learned Trial Court.

4. Learned counsel for the Petitioner has, in support of the aforesaid contention, placed reliance upon the Judgment of the Division Bench of this Court in **Smt. K.S. Sumi Mol v. Sh. Suresh Kumar E.K.**¹, and, in particular, paragraph 6(a) thereof. The relevant portion of the aforesaid Judgment reads as under:

“6. In view of the above, and in the absence of any specific Rules regarding the speedy disposal of cases relating to marriage and family affairs within a time frame, we hereby lay down the guidelines for strict observance by all the Family Courts in Delhi, till such time rules are formulated by the State Government in consultation with the High Court of Delhi.

“ Guidelines

a. Issue of Summons: When a suit has been duly instituted, a summons may be issued to the defendant to appear and answer the claim and to file the written statement of his defence, if any, within thirty days from the date of service of summons on that defendant:

Provided that no such summons shall be issued when a defendant has appeared at the presentation of plaint and admitted the plaintiff's claim:

Provided further that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but which shall not be later than one

¹ 2023 SCC OnLine Del 4685



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hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons.

Provided further, the time taken for conciliation, mediation or interaction shall be excluded.”

”

5. This Court has heard the learned counsel for the Petitioner and has perused the relevant documents on record, including the Impugned Order as well as the Application dated 15.05.2023 filed by the Respondent before the learned Trial Court.

6. Before examining the challenge to the Impugned Order on merits, it would be apposite to delineate the scope of jurisdiction exercised by this Court under Article 227 of the Constitution. The jurisdiction under Article 227 of the Constitution is supervisory in nature and is intended to ensure that subordinate Courts and Tribunals act within the bounds of their jurisdiction and in accordance with law. It is not an appellate jurisdiction and is not intended to enable the High Court to substitute its own view for that of the subordinate Court merely because another view is possible.

7. The contours of the aforesaid jurisdiction are well settled. The power of superintendence is to be exercised sparingly and with a high degree of judicial restraint. Interference is warranted where the order under challenge suffers from a patent jurisdictional error, perversity, manifest illegality, or results in a gross failure of justice. The Hon'ble Supreme Court in ***Shalini Shyam Shetty v. Rajendra Shankar Patil***², and ***Garment Craft v. Prakash Chand Goel***³ has reiterated the

² (2010) 8 SCC 329

³ (2022) 4 SCC 181



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aforesaid limitations governing the exercise of supervisory jurisdiction.

8. In ***Shalini Shyam Shetty*** (*supra*), the Hon'ble Supreme Court has held that the power under Article 227 of the Constitution is to be exercised sparingly and only in appropriate cases where interference is necessary to keep the subordinate Courts within the bounds of their authority. The relevant observations of the Hon'ble Supreme Court read as under:

“

(c) High Courts cannot, at the drop of a hat, in exercise of its power of superintendence under Article 227 of the Constitution, interfere with the orders of tribunals or courts inferior to it. Nor can it, in exercise of this power, act as a court of appeal over the orders of the court or tribunal subordinate to it. In cases where an alternative statutory mode of redressal has been provided, that would also operate as a restraint on the exercise of this power by the High Court.

(d) The parameters of interference by High Courts in exercise of their power of superintendence have been repeatedly laid down by this Court. In this regard the High Court must be guided by the principles laid down by the Constitution Bench of this Court in ***Waryam Singh***⁴ and the principles in ***Waryam Singh*** (*Supra*) have been repeatedly followed by subsequent Constitution Benches and various other decisions of this Court.

(e) According to the ratio in ***Waryam Singh*** (*Supra*), followed in subsequent cases, the High Court in exercise of its jurisdiction of superintendence can interfere in order only to keep the tribunals and courts subordinate to it, “within the bounds of their authority”.

(f) In order to ensure that law is followed by such tribunals and courts by exercising jurisdiction which is vested in them and by not declining to exercise the jurisdiction which is vested in them.

(g) Apart from the situations pointed in (e) and (f), High Court can interfere in exercise of its power of superintendence when there has been a patent perversity in the orders of the tribunals and courts subordinate to it or where there has been a gross and manifest failure of justice or the basic principles of natural justice have been flouted.

⁴ AIR 1954 SC 215



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(h) In exercise of its power of superintendence High Court cannot interfere to correct mere errors of law or fact or just because another view than the one taken by the tribunals or courts subordinate to it, is a possible view. In other words the jurisdiction has to be very sparingly exercised.

9. In **Garment Craft (supra)**, the Hon'ble Supreme Court reiterated that Article 227 of the Constitution does not permit the High Court to act as a court of first appeal and reappreciate or reweigh evidence. The relevant observations of the Hon'ble Supreme Court read as under:

“15. Having heard the counsel for the parties, we are clearly of the view that the impugned order [**Prakash Chand Goel v. Garment Craft**⁵] is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal. [**Celina Coelho Pereira v. Ulhas Mahabaleshwar Kholkar**⁶] The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice. 16. Explaining the scope of jurisdiction under Article 227, this Court in **Estralla Rubber v. Dass Estate (P) Ltd.**⁷ has observed : (SCC pp. 101-102, para 6)

“6. The scope and ambit of exercise of power and jurisdiction by a High Court under Article 227 of the Constitution of India is examined and explained in a number

⁵ 2019 SCC OnLine Del 11943

⁶ (2010) 1 SCC 217

⁷ (2001) 8 SCC 97



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of decisions of this Court. The exercise of power under this article involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority and to see that they do the duty expected or required of them in a legal manner. The High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of the jurisdiction of the subordinate courts or tribunals. Exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected. It is also well settled that the High Court while acting under this Article cannot exercise its power as an appellate court or substitute its own judgment in place of that of the subordinate court to correct an error, which is not apparent on the face of the record. The High Court can set aside or ignore the findings of facts of an inferior court or tribunal, if there is no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.”

10. It is in the aforesaid limited jurisdiction that the Impugned Order is required to be examined. The relevant portion of the Impugned Order is reproduced hereinbelow:

“I have heard the arguments and perused the record. This case of divorce under Muslim Law which has been filed by petitioner against respondent and is pending under adjudication. Though dispute between the parties was settled and petitioner agreed to withdraw this petition, yet she failed to withdraw it and decided to continue, whereas respondent failed to appear or to file WS, due to his defence was struck off vide order dated 17.12.2022. Respondent has pleaded that he was not aware about stage of this case, whereas he is an advocate and was supposed to know about his case and also to keep constant watch over it, which he failed to do and suffered adverse order. However, this case is pertaining to divorce and nature of case requires that it should be contested on merit and both parties should be given fair opportunity to prove their pleas. In fact, respondent would suffer irreparable loss, if opportunity is not extended to defend this case, whereas delay in moving this application may be compensated in terms of cost.

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Accordingly, application of respondent is hereby allowed, subject to cost of Rs. 3,000/- to be paid to the petitioner. Delay in filing WS is hereby condoned and WS filed by respondent is taken on record, subject to payment of cost only. With these observations application disposed off.”

11. The sole grievance of the Petitioner is that the Respondent approached the learned Trial Court after a delay of 174 days and that, consequently, the learned Trial Court ought not to have condoned the delay in filing the Written Statement.

12. There can be no dispute that the timelines governing filing of pleadings are intended to ensure procedural discipline and expeditious adjudication. The object of prescribing a time-frame is to prevent a litigant from delaying the proceedings and to ensure that the opposite party is not subjected to prolonged uncertainty. This consideration assumes particular significance in matrimonial proceedings, where the expeditious resolution of disputes is itself an important legislative and judicial objective.

13. At the same time, the mere fact that there has been delay cannot, by itself, conclude the matter. The Court is required to consider the nature of the proceedings, the consequence of shutting out the defence and whether the prejudice occasioned by the delay can otherwise be addressed. The Hon’ble Supreme Court, in **Kailash v. Nanhku & Ors.**⁸, while considering the time prescribed under Order VIII Rule 1 of the CPC, held that the provision is directory and that the Court retains the power, in an appropriate case and for reasons to be recorded, to permit filing beyond the prescribed period. The

⁸ (2005) 4 SCC 480



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Hon'ble Supreme Court, however, also made it clear that such discretion cannot be exercised routinely and that the prescribed time-frame is ordinarily required to be respected. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

“27. Three things are clear. Firstly, a careful reading of the language in which Order 8 Rule 1 has been drafted, shows that it casts an obligation on the defendant to file the written statement within 30 days from the date of service of summons on him and within the extended time falling within 90 days. The provision does not deal with the power of the court and also does not specifically take away the power of the court to take the written statement on record though filed beyond the time as provided for. Secondly, the nature of the provision contained in Order 8 Rule 1 is procedural. It is not a part of the substantive law. Thirdly, the object behind substituting Order 8 Rule 1 in the present shape is to curb the mischief of unscrupulous defendants adopting dilatory tactics, delaying the disposal of cases much to the chagrin of the plaintiffs and petitioners approaching the court for quick relief and also to the serious inconvenience of the court faced with frequent prayers for adjournments. The object is to expedite the hearing and not to scuttle the same. The process of justice may be speeded up and hurried but the fairness which is a basic element of justice cannot be permitted to be buried.

28. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice. The observations made by Krishna Iyer, J. in **Sushil Kumar Sen v. State of Bihar** [(1975) 1 SCC 774] are pertinent: (SCC p. 777, paras 5-6)

“The mortality of justice at the hands of law troubles a judge's conscience and points an angry interrogation at the law reformer.

The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the



mistress, of legal justice compels consideration of vesting a residuary power in judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable. ... Justice is the goal of jurisprudence — processual, as much as substantive.”

29. In ***State of Punjab v. Shamlal Murari*** [(1976) 1 SCC 719 : 1976 SCC (L&S) 118] the Court approved in no unmistakable terms the approach of moderating into wholesome directions what is regarded as mandatory on the principle that: (SCC p. 720)

“Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”

In ***Ghanshyam Dass v. Dominion of India*** [(1984) 3 SCC 46] the Court reiterated the need for interpreting a part of the adjective law dealing with procedure alone in such a manner as to subserve and advance the cause of justice rather than to defeat it as all the laws of procedure are based on this principle.

30. It is also to be noted that though the power of the court under the proviso appended to Rule 1 Order 8 is circumscribed by the words “shall not be later than ninety days” but the consequences flowing from non-extension of time are not specifically provided for though they may be read in by necessary implication. Merely because a provision of law is couched in a negative language implying mandatory character, the same is not without exceptions. The courts, when called upon to interpret the nature of the provision, may, keeping in view the entire context in which the provision came to be enacted, hold the same to be directory though worded in the negative form.

31. In ***Sangram Singh v. Election Tribunal, Kotah*** [(1955) 2 SCR 1 : AIR 1955 SC 425] this Court highlighted three principles while interpreting any portion of CPC. They are:

(i) A code of procedure must be regarded as such. It is “procedure”, something designed to facilitate justice and further its ends: not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is done to “both” sides) lest the very means designed for the furtherance of justice be used to frustrate it. (SCR pp. 8-9)

(ii) There must be ever present to the mind the fact that our laws of procedure are grounded on a principle of natural justice which requires that men should not be condemned unheard, that decisions should not be reached behind their backs, that



proceedings that affect their lives and property should not continue in their absence and that they should not be precluded from participating in them. Of course, there must be exceptions and where they are clearly defined they must be given effect to. (SCR p. 9)

(iii) No forms or procedure should ever be permitted to exclude the presentation of the litigant's defence unless there be an express provision to the contrary. (SCR p. 9)

33. As stated earlier, Order 8 Rule 1 is a provision contained in CPC and hence belongs to the domain of procedural law. Another feature noticeable in the language of Order 8 Rule 1 is that although it appoints a time within which the written statement has to be presented and also restricts the power of the court by employing language couched in a negative way that the extension of time appointed for filing the written statement was not to be later than 90 days from the date of service of summons yet it does not in itself provide for penal consequences to follow if the time schedule, as laid down, is not observed. From these two features certain consequences follow.

36. The Court further held that the provision is more by way of procedure to achieve the object of speedy disposal of such disputes. The strong terms in which the provision is couched are an expression of “desirability” but do not create any kind of substantive right in favour of the complainant by reason of delay so as to debar the respondent from placing his version in defence in any circumstances whatsoever.

41. Considering the object and purpose behind enacting Rule 1 of Order 8 in the present form and the context in which the provision is placed, we are of the opinion that the provision has to be construed as directory and not mandatory. In exceptional situations, the court may extend the time for filing the written statement though the period of 30 days and 90 days, referred to in the provision, has expired. However, we may not be misunderstood as nullifying the entire force and impact — the entire life and vigour — of the provision. The delaying tactics adopted by the defendants in law courts are now proverbial as they do stand to gain by delay. This is more so in election disputes because by delaying the trial of election petition, the successful candidate may succeed in enjoying the substantial part, if not in its entirety, the term for which he was elected even though he may lose the battle at the end. Therefore, the judge trying the case must handle the prayer for adjournment with firmness. The defendant seeking



extension of time beyond the limits laid down by the provision may not ordinarily be shown indulgence.

42. Ordinarily, the time schedule prescribed by Order 8 Rule 1 has to be honoured. The defendant should be vigilant. No sooner the writ of summons is served on him he should take steps for drafting his defence and filing the written statement on the appointed date of hearing without waiting for the arrival of the date appointed in the summons for his appearance in the court. The extension of time sought for by the defendant from the court whether within 30 days or 90 days, as the case may be, should not be granted just as a matter of routine and merely for the asking, more so, when the period of 90 days has expired. The extension can be only by way of an exception and for reasons assigned by the defendant and also recorded in writing by the court to its satisfaction. It must be spelled out that a departure from the time schedule prescribed by Order 8 Rule 1 of the Code was being allowed to be made because the circumstances were exceptional, occasioned by reasons beyond the control of the defendant and such extension was required in the interest of justice, and grave injustice would be occasioned if the time was not extended.

43. A prayer seeking time beyond 90 days for filing the written statement ought to be made in writing. In its judicial discretion exercised on well-settled parameters, the court may indeed put the defendants on terms including imposition of compensatory costs and may also insist on an affidavit, medical certificate or other documentary evidence (depending on the facts and circumstances of a given case) being annexed with the application seeking extension of time so as to convince the court that the prayer was founded on grounds which do exist.

44. The extension of time shall be only by way of exception and for reasons to be recorded in writing, howsoever brief they may be, by the court. In no case, shall the defendant be permitted to seek extension of time when the court is satisfied that it is a case of laxity or gross negligence on the part of the defendant or his counsel. The court may impose costs for dual purpose: (i) to deter the defendant from seeking any extension of time just for the asking, and (ii) to compensate the plaintiff for the delay and inconvenience caused to him.

45. However, no straitjacket formula can be laid down except that the observance of time schedule contemplated by Order 8 Rule 1 shall be the rule and departure therefrom an exception, made for satisfactory reasons only. We hold that Order 8 Rule 1, though couched in mandatory form, is directory being a provision in the domain of processual law.”



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14. The aforesaid principle, therefore, does not dispense with adherence to procedural timelines, but recognises that the Court retains a limited discretion to depart from them where the circumstances so warrant.

15. The same principle assumes relevance in the context of the present proceedings. In ***Bharat Kalra v. Raj Kishan Chhabra***⁹, the Hon'ble Supreme Court, while dealing with a delayed Written Statement, recognised that the prejudice occasioned by delay may, in an appropriate case, be compensated by costs and that denial of the opportunity to file the Written Statement may not necessarily be justified. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

“4. In view of the aforesaid judgment, we find that the delay in filing of the written statement could very well be compensated with costs but denying the benefit of filing of the written statement is unreasonable.”

16. In the present case, the learned Trial Court has not condoned the delay mechanically. The Impugned Order records that the Respondent had failed to remain vigilant in respect of the proceedings and, being an advocate, was expected to have kept track of the case. The learned Trial Court, nevertheless, took into consideration the fact that the proceedings pertain to dissolution of marriage and that denial of an opportunity to defend the proceedings on merits would cause prejudice to the Respondent. The learned Trial Court thus considered both sides of the matter rather than treating the delay as either automatically fatal or wholly inconsequential.

⁹ 2022 SCC OnLine SC 613



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17. The approach adopted by the learned Trial Court also finds support from the judgment of the Hon'ble Supreme Court in ***Shraddha Ashish Deshbhratar v. Ashish Ramchandra Deshbhratar***¹⁰, wherein the Hon'ble Supreme Court, while dealing with a delayed Written Statement in matrimonial proceedings, cautioned against applying procedural requirements in a manner which eclipses the Court's duty to render effective justice. The Court held that procedural discipline has to be balanced with the requirement of adjudication on merits, particularly in matrimonial matters. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

“7. In our considered view, the High Court has adopted a strict approach in declining to interfere with the order of the Trial Court, placing its reliance on strict procedural rigours. It is a settled principle that procedural requirements, though essential for orderly conduct of proceedings, are not intended to be applied in a manner that eclipses the duty of the court to render effective justice. Discretion rests with the courts to adopt a pragmatic approach in cases where rigid adherence may result in denial of a fair opportunity to parties. Considerations of procedural discipline, therefore, ought to be balanced with the overarching obligation to ensure that adjudication proceeds on merits, particularly in matrimonial matters.”

18. Thus, the principle emerging from the aforesaid decisions is not that delay in matrimonial proceedings is to be condoned as a matter of course. Rather, the Court is required to balance the requirement of procedural discipline against the prejudice that may result from completely shutting out a defence. In a case where the delay can adequately be compensated by costs and the defence can still be permitted to be adjudicated without defeating the object of the

¹⁰ CIVIL APPEAL NO. 15073 OF 2025 (ARISING OUT OF SLP(CIVIL) NO. 11282 OF 2025)



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proceedings, the exercise of discretion in favour of allowing the Written Statement cannot, by that reason alone, be characterised as impermissible.

19. In the present case, the learned Trial Court has adopted precisely such a course. While noticing the lapse on the part of the Respondent, it has permitted the Written Statement to be taken on record subject to payment of costs of Rs. 3,000/- to the Petitioner. The delay has, therefore, neither been overlooked nor treated as immaterial, rather, the learned Trial Court has sought to compensate the prejudice occasioned by the delay while preserving the Respondent's opportunity to contest the matrimonial proceedings on merits.

20. The aforesaid approach is also consistent with the recent decision of this Court in **WG CDR (Retd.) Rakesh Lal Kapur v. Sumeeta Tuli Kapur¹¹**, wherein, in the context of matrimonial proceedings, this Court recognised the need to balance procedural discipline with preservation of an effective opportunity of defence and held that such exercise of discretion would not warrant interference under Article 227 of the Constitution unless shown to be perverse, arbitrary or contrary to law. The relevant portion of the aforesaid Judgment is reproduced hereinbelow:

“13. The expression “as far as may be” is of significance and indicates that the provisions of the CPC are not to be applied to proceedings under the HMA with inflexible or mechanical rigour. The procedural framework of the CPC is, therefore, applicable to matrimonial proceedings to the extent compatible with the nature

¹¹ 2026 SCC OnLine Del 6491



and object of such proceedings and subject to the discretion of the Court to advance the cause of substantive justice.

14. The aforesaid principle assumes particular significance in matrimonial proceedings, where the Courts have consistently recognised the need for a degree of procedural flexibility. While procedural timelines cannot be disregarded as a matter of course, their application cannot also be divorced from the nature of the proceedings or the consequences which may follow from shutting out a party from effectively placing its defence before the Court. The governing consideration remains whether the procedure is being applied in aid of a fair and effective adjudication, or in a manner which occasions prejudice disproportionate to the procedural default.

15. This approach finds specific recognition in the catena of decisions of this Court, *inter alia*, in **Komal Gupta v. Amrendra Kumar Gupta**¹². In the said Judgement, this Court, while considering the closure of the right of a party to file a Written Statement in a Divorce Petition, observed that “in such matters of family disputes, the Family Courts have to be a little liberal and the stringent test, as may be applicable to commercial disputes, cannot be applied”. The Court further emphasized that closure of the right to file a Written Statement may have grave personal consequences and that the approach of the Family Court ought to be guided by the object of the Family Courts rather than technicality of law. The relevant portions of the said Judgement, read as under:

“7. Though the respondent may be correct in his submission that the petitioner having being served with a notice of the Divorce Petition on 16.01.2021 should have filed her Written Statement, at the same time, keeping in view the peculiar facts of the present case and especially the fact that the Divorce Petition has been transferred by the Supreme Court to the learned Family Court, Patiala House Courts, and on such transfer, notice had earlier been issued to the parties to enter appearance and thereafter, by the order dated 22.12.2022, a period of thirty days had been granted to the petitioner to file her written statement, in my opinion, it was a fit case for the learned Family Court not to close the right of the petitioner to file her written statement, but to impose conditions for ensuring that the petitioner does not cause further delay in the adjudication of the Divorce Petition.

8. In such matters of family disputes, the Family Courts have to be a little liberal and the stringent test, as may be applicable to

¹² 2023 DHC 6784



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commercial disputes, cannot be applied. It is to be remembered that closing of the right to file written statement would result in grave personal consequences to the party concerned. The approach of the learned Family Court, therefore, has to be guided by the object of the Family Court, rather than the technicality of law. At the same time, in case the learned Family Court finds that the party is intentionally delaying the adjudication/progress of the proceedings pending before it, it must pass orders stipulating conditions to ensure that such party does not succeed in its attempt to delay the proceedings.”

”

21. In the present case, the learned Trial Court has considered the delay, the circumstances surrounding the Respondent’s failure to file the Written Statement, the nature of the matrimonial proceedings and the prejudice that would result from shutting out the defence. It has thereafter imposed costs while taking the Written Statement on record. The discretion exercised by the learned Trial Court is thus founded upon relevant considerations and cannot be said to be either arbitrary or mechanical.

22. This Court, while exercising its supervisory jurisdiction under Article 227 of the Constitution, is not expected to sit as a Court of appeal or substitute its own view for that of the learned Trial Court merely because another view may also be possible. Interference is warranted only where the Impugned Order suffers from perversity, a manifest error of law, grave dereliction of duty, or results in a failure of justice. Having regard to the reasons recorded hereinabove, no such infirmity is discernible in the exercise of discretion by the learned Trial Court.



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23. In view of the foregoing discussion, this Court finds no ground to interfere with the Impugned Order. The present Petition is, accordingly, dismissed.

24. The present Petition, along with the pending Application(s), if any, stands disposed of in the above terms.

HARISH VAIDYANATHAN SHANKAR, J.
SEPTEMBER 21, 2026/rk/ma

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