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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% *Date of Decision: 21th February 2025*

+ CM(M) 369/2025

MEENU AGRAWAL

.....Petitioner

Through: Mr. Saurabh Seth, Ms. Neelampreet and Mr. Tejasvi Chaudhari and Mr. Abhiroop Rathore, Advs.

versus

BHARAT GOEL

.....Respondent

Through: Mr. Arvind Kr. Gupta and Mr. Abhisesumat Gupta, Advs.

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T (O R A L)

RAVINDER DUDEJA, J.

CM APPL. 10800/2025 (exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

CM(M) 369/2025 & CM APPL. 10799/2025 STAY

1. Petitioner has approached this Court in the exercise of its extraordinary and supervisory jurisdiction under Article 227 of the Constitution of India to assail the order dated 29.10.2024 and 15.01.2025, passed by the learned Principal Judge, Family Court in



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HMA No. 1552/2023, titled “*Bharat Goel Vs. Meenu Agrawal*”, whereby, the petitioner’s right to file reply/written statement was closed and a subsequent application for the recall of the said order was also dismissed.

2. Respondent filed a Divorce Petition under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 against the petitioner herein before the Family Court.

3. Petitioner was proceeded ex-parte on 01.12.2023. The ex-parte order was set aside subject to cost on 05.03.2024.

4. Vide orders dated 27.05.2024, the Family Court granted two weeks time to the petitioner for filing reply/written statement.

5. Since written statement was not filed, learned Family Court vide order dated 29.10.2024, closed the right of the petitioner to file written statement.

6. Petitioner filed an application for setting aside the order dated 29.10.2024. However, the said application was dismissed vide order dated 15.01.2025.

7. Learned counsel for the petitioner submits that petitioner is a single mother and has the sole responsibility for the upbringing and care of two children, including a minor son. She is also facing financial constraints due to the legal battle initiated by the respondent.

8. It is further submitted that the daughter of the petitioner has been undergoing medical treatment since July 2024, necessitating multiple consultations/diagnostic tests and continuous medical supervision but the learned Family Court paid no consideration to the



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medical record evidencing the same. It is further submitted that the medical condition of the daughter of the petitioner is to the knowledge of the respondent, which is evident from the WhatsApp conversation between the respondent and his daughter, which is annexed to the record.

9. It has been further argued that the delay in filing the written statement was neither deliberate nor wilful but was occasioned due to the aforesaid compelling circumstances. He further submits that the written statement is ready and he needs only one opportunity to file the same.

10. *Per contra*, the learned counsel of respondent submits that the photographs shared by the daughter to him on WhatsApp show that the daughter was travelling with the family on a pleasure trip on 25.09.2024. It is thus submitted that she is not suffering from any ailment of such nature that petitioner could not file the written statement within the stipulated period. It is argued that the divorce petition was filed in August 2023 but no progress has been made so far due to the dilatory tactics adopted by the petitioner. It is argued that there is no illegality/perversity in the impugned orders passed by the learned Family Court, and therefore, the present petition is liable to be dismissed.

11. While dealing with disputes concerning the family, the Courts ought to adopt an approach radically different from that adopted in ordinary civil proceedings. A Co-ordinate Bench of this Court in the case of **Komal Gupta Vs. Amrendra Kumar Gupta (CM(M)**



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862/2023 and CM APPL. 27227/2023 dated 18.09.2023), while dealing with challenge to the order of the Family Court closing the right of the petitioner therein to file her written statement and striking of her defence observed as under:-

“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 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.”

12. This Court in **CM(M) 4108/2024 titled Dr. Sunil Kumar Vs. Dr. Archana**, while relying upon the decision in the case of Komal Gupta (*supra*), allowed the written statement filed after delay, to be taken on record.

13. Petitioner has placed on record the medical record, which prima facie, shows that the daughter of the petitioner is having health issues and the WhatsApp conversations reveal that the said fact is to the knowledge of the respondent.

14. The closure of petitioner's right to file the written statement would deprive her of an opportunity to defend herself in the divorce petition. Petitioner shall suffer great prejudice in case she is not allowed to file the written statement and bring-forth her defence in the divorce petition.



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15. Keeping in view the reasons explained i.e. medical condition of the daughter and the fact that it is a family dispute between the parties which should be decided on merits, in the interest of justice, petition is allowed and the impugned orders dated 29.10.2024 and 15.01.2025 are set aside, subject to the condition that petitioner shall file the written statement within a period of one week from today and shall not seek any adjournment for the said purpose on any ground whatsoever. In order to expedite the case, the learned Family Court is requested to make best possible endeavour to expedite the disposal of the petition and to discourage unnecessary adjournments. Learned counsel for the parties are also directed to render their due assistance and cooperation to the court in expediting the proceedings of the case.

16. Petition is disposed of in terms of the above order.

RAVINDER DUDEJA, J.

February 21, 2025

RM