

ORDER BELOW EXH. NO.10

1. This application is filed by respondent for setting aside the “No Written Statement” order passed below Exh.1 dated 08.08.2024. Respondent has filed the application on the ground that, respondent has appeared on 09.05.2024 and thereafter summer vacation has started. On 02.07.2024 respondent was ill so she could not communicate to her advocate. So also respondent did not have the copy of application so she could not file her written statement on fixed date. But she really wants to contest the petition.

2. Petitioner has strongly resisted this application by filing his say on the overleaf of the application. He has opposed this application on the ground that, reason mentioned in the application is not acceptable. Hence, he has prayed for the rejection of this application.

3. The points for determination along with my findings thereon are as follows.

POINTS**FINDINGS.**

[i] Whether there is a sufficient cause which precluded the respondent from filing the written statement within prescribed time ?

Yes.

[ii] What order?

Application is allowed.

REASONS**As to point No.1 :**

4. The petition is for restitution of conjugal right vide Sec.9 of Hindu Marriage Act, 1955. Therefore, liberal view has to be taken while considering this application. The reason assigned appears to be satisfactory as without communicating her advocate for preparation of her written statement, it was not possible to prepare and file her written statement. Therefore, in my view, in the interest of justice it will be just and proper to grant an opportunity to the respondent to contest the petition by filing her written statement. Hence, the point No.1 is answered in the affirmative and in response to point No.2, I proceed to pass the following order.

ORDER

1. The application Exhibit 10 is allowed.
2. The order dated 08.08.2024 passed below Exh.1 directing the petition to proceed without written statement of respondent is hereby set aside.
3. Time for filling written statement by respondent is extended.
4. Cost in main cause.

Date: 23/10/2024.

(**Mahesh S. Kale**)
Civil Judge (Sr.Dn.),
Akot.