

**HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT
CHANDIGARH**

**CR No.5356 of 2016
Date of Decision:4.9.2017**

Jaspreet Kaur

...Petitioner

Versus

Lovepreet Singh Dhiman

...Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Ms.Sukhpreet Kaur, Advocate for the petitioner.
Mr.Kiran Kumar, Advocate for the respondent.

RAMESHWAR SINGH MALIK, J. (Oral)

Feeling aggrieved against the order dated 28.7.2016 passed by the learned Matrimonial Court, dismissing the application of the petitioner-wife moved under Order 6 Rule 17 of the Code of Civil Procedure ('CPC' for short) for amending two paragraphs of her divorce petition, incorporating some additional facts, petitioner has approached this Court by way of instant civil revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Notice of motion was issued.

Heard learned counsel for the parties.

It is a matter of record that when the application for amendment was filed, divorce petition was at the very initial stage. Further, respondent-husband was not going to be taken by surprise by the formal amendment being sought in the divorce petition. In this view of the matter, no prejudice of any kind, whatsoever, was going to be caused to the

respondent-husband. In such a situation, the learned Matrimonial Court ought to have allowed the amendment in the divorce petition. Since the impugned order has been found suffering from patent illegality, it cannot be sustained.

It is the settled principle of law that parties to the litigation must be granted due opportunity to put up their best case before the court. None of the parties to the litigation should be forced to go home with the grievance that sufficient opportunity was not granted by the court. By following this principle of law, learned court would achieve twin objects i.e. (i) it would avoid multiplicity of litigation between the parties and (ii) the court would be in a better position to do substantial justice between the parties. However, in the instant case, the learned court below failed to appreciate the above-said factual as well as legal aspect of the matter, while passing the impugned order and the same cannot be sustained, for this reason also.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that since the impugned order has been found suffering from patent illegality, it cannot be sustained. Accordingly, the impugned order dated 28.7.2016 passed by the learned Matrimonial Court is hereby set aside.

Application of the petitioner-wife under Order 6 Rule 17 CPC would stand allowed. The learned Matrimonial court is directed to allow the petitioner to file her amended divorce petition, if not already filed and thereafter decide the

same at an early date, in accordance with law. It goes without saying that the respondent shall also be permitted to file his amended written statement to the divorce petition.

Resultantly, with the above-said observations made and directions issued, the civil revision petition stands allowed, however, with no order as to costs.

4.9.2017
mks

(RAMESHWAR SINGH MALIK)
JUDGE

Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No