

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

CRM-M No. 10254 of 2017(O&M)

Date of decision: 27.3.2017

Rakesh Kumar

....Petitioner

VERSUS

Pushap Lata

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Satbir Rathore, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against orders dated 20.02.2017 and 28.02.2017 whereby evidence of the petitioner was closed by order and application filed for recalling order dated 20.02.2017 and providing an opportunity to adduce evidence has been dismissed.

Counsel for the petitioner has submitted that though the petitioner availed several opportunities for adducing evidence and examined his father as a witness but he could not examine himself on 20.02.2017 as his grand-father was ailing and has actually passed away on 26.02.2017. It is further submitted that the very fact that the petitioner filed an application for recalling order dated 20.02.2017 at the first available opportunity i.e. 28.02.2017, it shows that he had no intention to delay the proceedings. The last submission made by counsel is that in case the petitioner is not allowed to examine himself, evidence adduced by the respondent shall remain un-rebutted and may cause serious prejudice to the petitioner to seek adjudication on merits.

I have heard counsel for the petitioner, perused the paper-book particularly the various annexures appended with the petition.

Be that as it may, it becomes apparent that evidence of the petitioner was closed by order on 20.02.2017 and the case was adjourned to 28.02.2017. On the adjourned date, petitioner filed an application for recalling the order dated 20.02.2017 and the same was dismissed. The trial Court in the order dated 28.02.2017 has refused to accept plea of the petitioner qua illness of his grand-father for want of supporting documents. However, the petitioner has placed on record before this Court one prescription of Dr. Amit Kumar (BAMS) of Jivan Jyoty Nursing Home (Annexure P-5) and death certificate of his grand-father (Annexure P-6). On a pointed query raised by the Court, counsel for the petitioner has informed that in case the petitioner is allowed one opportunity to adduce evidence, he intends to examine himself and not to produce any other evidence.

Taking into consideration the two documents (Annexure P-5 and P-6) coupled with conduct of the petitioner that he filed the application for recalling order dated 20.02.2017 without any loss of time along with the fact that non-examination of the petitioner as a witness may be of serious consequence for adjudication of rival claims of the parties, the petitioner is allowed one opportunity to examine himself as a witness on 30.03.2017, the date already fixed before the trial Court subject, however, to payment of costs of Rs.10,000/- to the respondent-wife against receipt.

Before parting with this order, it is clarified that the petition has been disposed of without notice to the respondent in order to save her from unnecessary expense and inconvenience. However, the respondent

would be at liberty to file an appropriate application in case she has any grievance to express.

MARCH 27, 2017		(REKHA MITTAL)
‘D. Gulati’		JUDGE
Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no