

\$~26

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

+ CM(M) 103/2017 & CMs 3207/2017, 25374/2017

SWEEN KAPOOR

..... Petitioner

Through: Mr. Manuj Aggarwal, Advocate along
with petitioner in person.

versus

NARESH KAPOOR

..... Respondent

Through: Mr. Jai Gupta, Ms.Smita Yadav,
Ms.Shashi Ranjan, Advocates.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **30.08.2017**

1. The petitioner has challenged the order dated 4th January, 2017 whereby her evidence has been closed.
2. Learned counsel for the petitioner submits that the petitioner has to examine her father as RW-2 and his affidavit by way of evidence has already been filed before the Court. It is submitted that the petitioner's father aged about 85 years was suffering from severe spinal knee injuries and therefore, could not appear before the learned Family Court.
3. Learned counsel for the respondent submits that the petitioner has deliberately delayed her evidence before the Trial Court on one pretext or another since 2008. It is submitted that the petitioner's father has not appeared for his evidence despite number of opportunities granted.
4. Learned counsel for the petitioner disputes that the petitioner delayed the matter. It is submitted that the petitioner has filed two applications for payment of arrears of maintenance which are pending. It is further

submitted that the petitioner be granted one opportunity to record the evidence of her father and the petitioner would not seek any adjournment on the date fixed.

5. In the facts and circumstances of this case, the impugned order dated 04th January, 2017 is set aside and the petitioner is granted one opportunity to complete the evidence of her father, RW-2 on 7th October, 2017. If the petitioner's father does not appear on 7th October, 2017, the petitioner's evidence shall be closed by the Family Court and no further opportunity shall be granted to the petitioner.

6. If the cross-examination of RW-2 does not conclude on 7th October, 2017, the Family Court shall fix an early date for continuing the cross-examination of RW-2. RW-2 shall remain present on the dates fixed by the Family Court for his cross-examination.

7. With respect to the pending applications for arrears of maintenance, the Family Court shall take up the applications after the conclusion of the petitioner's evidence.

8. The petition is disposed of in the above terms. The pending applications are disposed of.

9. The record of the Family Court be returned back forthwith.

J.R. MIDHA, J.

AUGUST 30, 2017

dk