

Shubhlata

.....Petitioner

Versus

Anil Channa

.....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBALPresent: Mr. S.K.S. Bedi, Advocate
for the petitioner.**DEEPAK SIBAL, J. (ORAL)**

The present petition is directed against the order dated 15.09.2018, passed by the Additional District Judge, Chandigarh (for short, the Trial Court), dismissing the application filed by the petitioner-wife through which she prayed for treating the issue with regard to maintainability of the divorce petition as a preliminary issue.

Learned counsel for the petitioner submits that he does not press the prayer made by the petitioner for treating the issue of maintainability of the divorce petition as a preliminary issue. However, he contends that during the course of adjudicating upon such application filed by the petitioner, the Trial Court has returned findings on merits which would prejudice the petitioner at the time when such issue would be finally adjudicated upon. According to him, this should have not been done by the Trial Court.

Since learned counsel for the petitioner has not pressed the prayer made by the petitioner for treating the issue of maintainability of the respondent's divorce petition as a preliminary issue, there is no occasion to adjudicate upon such prayer. However, a perusal of the order impugned before this Court shows that while deciding the prayer made by the

petitioner for treating the issue of maintainability of the divorce petition as a preliminary issue, the Trial Court has returned findings on the merits of such issue. Therefore, the present petition is disposed of with a direction that the issue of maintainability of the divorce petition which was framed by the Trial Court as issue No.2 would be finally adjudicated upon after the parties have led their respective evidence on such issue as also on other issues framed by the Trial Court and at that stage the Trial Court shall not be influenced by the findings returned by it in the order impugned before this Court in the present proceedings as such findings have been returned before the parties have led evidence and on an application filed by the petitioner wherein the only prayer was to treat the issue of maintainability of the divorce petition as a preliminary issue.

If the respondent is aggrieved by the instant order, he is at liberty to approach this Court through an appropriate application.

(DEEPAK SIBAL)
JUDGE

01.11.2018
sandeep

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No