

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

**Civil Revision No.7636 of 2017 (O&M)
Date of Order:21.02.2018**

Krishna Devi

..Petitioner

Versus

Kamlesh Kumar

..Respondent

Civil Revision No.7637 of 2017 (O&M)

Krishna Devi and another

..Petitioners

Versus

Kamlesh Kumar

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Gurmohan Singh Bedi, Advocate,
for the petitioner

ANIL KSHETARPAL, J.

By this order, Civil Revision Nos.7636 and 7637 of 2017 shall stand disposed of as the issue which needs determination in both the cases is common.

Petitioner-wife has challenged the orders dated 04.09.2017 (Annexure P-1) and 10.10.2017 (Annexure P-4). The husband had filed a petition under Section 13 of the Hindu Marriage Act, 1955 for grant of a decree of divorce. In the second case, the husband has filed a petition under Section 10 read with Section 25 of the Guardians and Wards Act, 1950, claiming custody of the child "Khushi".

When the case was fixed for evidence of the petitioner before the trial Court, he filed an affidavit in examination-in-chief on 04.09.2017 in both the cases. Petitioner-wife made a request to the court to first decide

the application under Section 24 of the Hindu Marriage Act. It was further submitted that copy of the affidavit has been supplied in the court on that day itself and therefore the case be adjourned.

Learned trial court appears to have felt offended and forfeited the opportunity of the petitioner-wife to cross-examine husband-petitioner in petition under Section 13 of the Hindu Marriage Act. Similar order was passed in the other case.

Petitioner-wife filed an application for re-call/withdrawal of order dated 04.09.2017 and permit the petitioner to cross-examine the witness. Even that application was dismissed by the court vide order dated 10.10.2017.

Notice of motion was issued in both the revision petitions, however, no one has chosen to appear.

No doubt, it is appreciable for the Court to expeditiously decide the cases. However, the court at the same time should not over look that expeditious disposal does not result in denial of proper opportunity to the parties to the suit. It is not in dispute that the affidavit in lieu of examination-in-chief was submitted by the husband on 04.09.2017. If the wife-petitioner sought an adjournment, to study the affidavit, the court could have adjourned the case for 2-3 days, so that wife is able to assist her counsel and brief him about the cross-examination to be conducted.

Wife-petitioner had also prayed for decision on the application under Section 24 of the Hindu Marriage Act before cross-examination. Application under Section 24 of the Hindu Marriage Act is for grant of maintenance pendente lite.

Without further commenting upon the orders passed, this Court

is of the considered opinion that the ends of justice would be met, if the orders under challenge are set aside.

Learned trial court is requested to grant an opportunity to counsel for the petitioner-wife to cross-examine the husband on the next date of hearing.

With these observations, both the revision petitions are allowed.

February 21, 2018
nt

(ANIL KSHETARPAL)
JUDGE

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