

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

C.R. No.8707 of 2017

Date of Decision.10.01.2018

Karmjit Kaur @ Karamjit Kaur

.....Petitioner

Vs

Yadwinder Singh

.....Respondent

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Aakash Singla, Advocate
for the petitioner.

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AMIT RAWAL J.(ORAL)

The petitioner, who is wife seeking divorce against the husband, in essence, petitioner before the trial court when the petition reached at the final stage sought following relief in the plaint, which has been rejected by the trial Court:-

- “2. *That while preparing the case for rebuttal evidence and arguments it has come to the knowledge of the petitioner/applicant through its Special Power of Attorney holder that month of departure has been wrongly typed while typing the original petition inadvertently as 10.05.2011 instead of 10.06.2011.*
3. *That by way of present amendment the petitioner/applicant wants to correct the month of the departure of the petitioner to England in para No.6 of the original petition as 10.06.2011 instead of 10.5.2011, after the words left for England on and wants to add 10.06.2011 instead of 10.05.2011 as well as in para No.7 of the petition after the words That*

after instead of 10.5.2011 as 10.06.2011 by way of present amendment.

4. *That the applicant wants to add the month of December in Para No.8 of the original Petition prior to th word year 2013 and after the word India in.”*

Mr. Aakash Singla, learned counsel appearing on behalf of the petitioner submitted that the petitioner has moved an application under Section 13 of the Hindu Marriage Act seeking divorce on two grounds namely (i) cruelty and (ii) desertion. The inadvertent error surfaced/came to the knowledge of the petitioner only at the time of arguments, for, the second amendment pertaining to adding of the word “December” before 2013 in para 8 of the petition as admitted in cross-examination is relevant, which has been extracted in para 4 of the revision petition and as well as the correction with regard to the date of departure instead of 10.05.2011 to 10.06.2011.

The aforementioned amendment is in clarificatory manner, much less, would be falling within the expression clerical and would not take away any right or withdrawal of the admission prejudicial to the interest of the respondent-husband, thus, the rigours of the amended provisions of Order 6 Rule 17 CPC caused in 2002 would not come in the way of the petitioner. This fact has not been noticed by the trial Court, thus, urges this Court for setting aside the order under challenge.

I have heard learned counsel for the petitioner and appraised the paper book. Before proceeding further, this Court asked a question to Mr. Singla as to whether copy of the passport indicating the date of departure has been proved in accordance with law, the answer was in

negative. In the absence of any evidence, the aforementioned pleading, in my view, would be an exercise in futility. An alleged admission relied in para 4 of the revision petition, which reads as under, would, in my view, takes care of the amendment as sought:-

“...It is correct that petitioner had visited India in December 2013....It is correct that she left for U.K. after two weeks in the month of January 2014 but I do not remember the date...The petitioner landed in India at Amritsar Airport in December 2013....”

Therefore, it would not be necessary to cause the amendment.

In the absence of the passport, amendment qua date of departure as indicated in the application for amendment, in my view, has not been sought at an appropriate stage, much less, without any evidence on record.

In view of the aforementioned, I do not intend to differ with the order passed by the trial Court, which cannot be said to be passed exceeding the jurisdiction vested in the trial Court. The revision petition is dismissed.

(AMIT RAWAL)
JUDGE

January 10, 2018

Pankaj*

Whether reasoned/speaking Yes/No

Whether reportable Yes/No