

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-8240 of 2017 (O&M)
Date of decision: 22.09.2022

Major Rishma Sarin @ Rishma Sharma

..Petitioner

Versus

R.P.Sharma and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. D.S.Matya, Advocate,
for the petitioner.

Mr. Rahul Garg, Advocate
for respondent no.1 and 2.

ANIL KSHETARPAL, J(Oral)

1. This is an unfortunate litigation between the wife and the parents of late Sh. Mohit Sharma, who lost his life while serving the Nation.

2. There is a flat jointly allotted in the name of late Sh. Mohit Sharma and his father. The father claims that the aforesaid flat was purchased exclusively from the funds contributed by him and the name of late Sh. Mohit Sharma was added on account of love and affection.

3. During the pendency of the suit, the case was fixed for recording the deposition of the petitioner, who is also an army officer. On 09.10.2017, the court granted the petitioner a last opportunity to get the deposition recorded subject to payment of costs of Rs.3,000/-. On 21.10.2017, an application on behalf of the petitioner was filed for recording her deposition through Local Commissioner. On 24.10.2017, the Court while dismissing the application passed the order of striking off her defence.

Consequently, she was debarred from contesting the suit.

4. On 27.10.2017, the petitioner filed an application under Section 148 read with Section 151 CPC for recall of the order dated 24.10.2017 and the cost as directed by the Court was also deposited on 30.10.2017. The Court has refused to recall the said order, resulting in filing of the present revision petition. The relevant portion of the said order is extracted as under:-

“In the opinion of this Court, there was no sufficient reason for not depositing the cost on 24.10.2017. The cost was intentionally not deposited by ld. Counsel for the applicant. Hence, the present application is not maintainable. The same is hereby dismissed. However, taking a lenient view towards the applicant, she is allowed to participate in the final arguments subject to payment of cost of Rs.1000/- (imposed on 09.10.2017) to be paid to be plaintiff/respondent.”

5. From the reading of the order, it appears that on account of the conduct of the learned counsel representing the petitioner, the Presiding Judge felt antagonized. The Advocates are officers of the Court. There has to be mutual respect between the members of the Bench and the bar. During the Court proceedings, all the members are expected to maintain decorum and follow duly established practices. There can be cases where there is a genuine difficulty, however, that does not permit the advocates to be callous, generally. It is expected that the learned counsel concerned would make sincere efforts to improve his conduct.

6. While filing the application, the petitioner has asserted that she could not come to Ambala to record her deposition as her application for leave was not sanctioned by the Army authorities. In such circumstances, the Presiding Judge of the Court was also expected to be more liberal and considerate.

7. Keeping in view the aforesaid facts, this Court is of the

considered view that the petitioner deserves one more opportunity to record her deposition.

8. The learned counsel representing the petitioner undertakes that the petitioner would appear before the Court within a period of one week, from today.

9. Since the petitioner is serving in the Army and presently, she is on leave, therefore, the trial Court is requested to record her deposition on 30.09.2022, positively.

10. The parties through their counsels are directed to appear before the trial Court on 30.09.2022.

11. With these observations, the revision petition is disposed of.

12. All the pending miscellaneous applications, if any, are also disposed of.

September 22, 2022

nt

(ANIL KSHETARPAL)
JUDGE

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