

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

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**CR No. 3572 of 2022 (O& M)
Date of decision : 1.9.2022**

Nirmaljit Kaur

.....Petitioner

Vs.

Satnam Singh

.....Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. G.S. Sirphikhi, Advocate, for the petitioner

TRIBHUVAN DAHIYA, J. (Oral)

This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 26.5.2022 passed by the Principal Judge, Family Court, Gurdaspur, by which respondent/husband's application to tender his duly sworn affidavit has been allowed.

It has been stated in the application that in the earlier affidavit Ex.PW1/A tendered in evidence by the respondent/husband before the Family Court on 10.3.2022 there were certain typographic mistakes, which changed the sense of the petition and the evidence, and, therefore, needed correction. It was pleaded that in line 44, 59, 61 of the affidavit, word 'respondent' is written instead of word 'petitioner'; and in line 58 date of desertion is written as 'January 2017' instead of '17 January, 2017'. It has further been averred that for proper adjudication of the divorce petition, an affidavit of additional evidence is required to be tendered in evidence.

The Principal Judge, Family Court in the order dated 26.5.2022

has recorded that the respondent/husband is only seeking to tender supplementary affidavit to the previous affidavit with corrections of the typographic mistakes. In no way he wants to change the evidence which is not in consonance with his pleadings. No prejudice is likely to be caused to the respondent (petitioner herein) on that account, as cross-examination of the applicant/husband has started and the petitioner herein would have ample opportunity to cross-examine him. With these observations, the application was allowed and the respondent/husband was permitted to furnish affidavit on the same lines as the previously tendered affidavit in examination-in-chief, but with corrections of typing mistakes.

Learned counsel for the petitioner/wife has argued that the respondent/husband wanted to amend the affidavit already tendered by him in examination-in-chief at a time when his cross-examination as PW-1 has already started. After start of cross-examination, the party loses its right to change or alter the affidavit tendered in examination-in-chief. In support of his contention he has relied upon the judgment of this Court in *Mohinder Singh and another v. Surinder Singh and others*, 2021 (4) PLR 391.

A perusal of the petition as well as the order passed by the Principal Judge, Family Court, dated 26.5.2022, establishes that the additional affidavit that has been allowed to be tendered with the corrected typing mistakes, in no manner amends the evidence/affidavit that has already been tendered in examination-in-chief by the respondent/husband as PW-1. No permission was sought to amend the pleadings by the respondent/husband, nor the pleadings have been amended by the additional affidavit filed, which is only supplemental to the affidavit already tendered in examination-in-chief.

Besides, cross-examination of the witnesses is not over, and the petitioner/wife will have opportunity to cross-examine him with regard to the additional affidavit as well. Therefore, no prejudice is being caused to the petitioner/wife on that account.

The application has been allowed by the Principal Judge, Family Court by invoking powers under Section 151 CPC, which are inherent powers and are meant to meet the ends of justice. In case the powers have been invoked to allow the respondent/husband to file an additional affidavit as supplemental to the affidavit already tendered in examination-in-chief after removal of typing mistakes therein, there is nothing wrong in it. No new evidence has been tendered. The judgment referred to and relied upon by learned counsel for petitioner in **Mohinder Singh case** (*supra*) has no applicability to the facts of the present case, as therein the application for correction of affidavit was declined by the trial Court, and revision against the same was dismissed by this Court on the ground that the affidavit filed on behalf of the defendant was not in consonance with his pleadings. No such eventuality arises in the instant case, therefore, the reliance upon the judgment is misplaced.

Dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

1.9.2022

Ashwani

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No