

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

**CR-9279-2018
Decided on:-24.11.2022**

Sandeep Sharma

....Petitioner

vs.

Neetu @ Kanika

....Respondent.

CORAM:HON'BLE MR. JUSTICE HARKESH MANUJA

Present: Mr. Manish Prabhaker, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

By way of present revision petition, challenge has been made to an order dated 09.10.2018, passed by the Civil Judge Senior Division-cum-Guardian Judge, Amritsar, whereby the evidence of petitioner-husband has been closed by court orders.

The facts of the present case are that, respondent-wife filed a petition under Section 25 of the Guardians and Wards Act, 1899 against the petitioner-husband, seeking custody of their sons, namely, Tanish and Mohit. In the aforesaid petition, evidence of respondent-wife started on 02.02.2017 and the same was concluded on 23.08.2018. Thereafter, the proceedings were fixed for recording the evidence of petitioner-husband. The first date for the said purpose was 05.09.2018 whereas the opportunity was closed by the trial court vide order dated 09.10.2018. It is the said order, which has been impugned in the present petition.

Learned counsel for the petitioner-husband submits that just

and sufficient opportunity has not been granted to the petitioner-husband for recording his evidence and the trial court has shown undue haste while passing the impugned order.

Despite service, no one has chosen to appear on behalf of the respondent-wife.

I have heard learned counsel for the petitioner and gone through the record.

From a perusal of paper book and the submission made on behalf of petitioner-husband, I find substance in the present revision petition.

In the facts and circumstances of the present case, wherein, evidence of petitioner-husband started on 05.09.2018 and the same was ordered to be closed on 09.10.2018, it appears that no fair and adequate opportunity was ever granted to petitioner-husband, so as to conclude his evidence.

The present is a case, wherein, substantial rights of the parties are involved and that too, pertaining to the custody of their children and the result of passing of the impugned order is going to be that the petitioner-husband would not be able to support his defence taken in the written statement, which may, cause serious prejudice to him this regard.

In the facts and circumstances of the present case, the dispute being related to the custody of children, therefore, rather than, adopting a hyper technical approach, the court below should have considered the matter by taking a pragmatic approach and granted sufficient opportunity to the petitioner, so as to prove his case.

In view of the aforesaid discussion, the order dated 09.10.2018 passed by the Civil Judge Senior Division-cum-Guardian Judge, Amritsar is set aside, consequently, present revision petition is allowed by granting two effective opportunities to petitioner-husband to conclude his evidence before the trial court.

Pending application(s), if any, shall also stand disposed of.

24.11.2022

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(HARKESH MANUJA)
JUDGE

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