



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL REVISION APPLICATION NO.125/2023

1. Mrs. Ambreen W/o Mujahid Iqbal
aged about 42 years, Occ. Household;
2. Miss Nashrah D/o Mujahid Iqbal,
aged about 15 years, Occ. Student;
3. Mast. Hamdan S/o Mujahid Iqbal
aged about 12 years, Occ. Student;

(Applicants 2 & 3 being minors, through
their natural guardian mother, the
Applicant No. 1)

All r/o Plot 87 A, I-louse No 747A,
Beside Kareern's Hotel, Nelson Square,
Chhindwara Road, Nagpur.

.....APPLICANTS

...V E R S U S...

Mujahid Iqbal S/o Mohammad Ismail,
aged about 56 years, Occ. Business,
R/o Al Gurg Tower, Mashriq Studio,
Opposite Sharjah Rotana Hotel, Rofla,
Sharjah (UAE)

...NON APPLICANT

M. M. Shareef, Advocate for applicants.
Mr. S. S. Sitani, Advocate for non applicant.

CORAM:- ANIL L. PANSARE, J.
DATED :- 12.09.2023

ORAL JUDGMENT

Heard. **Admit.** Heard finally by consent of learned
counsel for the parties.

2. The challenge is to the order dated 13.06.2023 passed by learned Judge Family Court, Nagpur thereby closing the applicant's evidence. The applicant no.1-wife and her children have filed proceeding under Section 125 of the Criminal Procedure Code, 1973 against the non applicant-husband/father.

3. This Court, vide order dated 27.03.2023 in Criminal Revision No.87/2022 made the application pending before the Family Court time bound and thus to decide the application within four months from the date of passing of the order. This application was to be, accordingly, decided by July-2023. The learned Judge, Family Court has closed the evidence of the applicants on the ground that the applicants have failed to lead further examination in chief despite the matter being made time bound.

4. Counsel for the applicants has rightly argued that merely because the matter has been made time bound, ought not to have been a ground to infringe the rights of parties to lead evidence. In a given case, learned Judge, Family Court could have sought extension of time to decide the application, however, closing the evidence solely on the ground that the matter has been made time bound, has caused serious prejudice to the case of the applicants.

5. Learned A.P.P. has no objection, if the order is set aside. It appears that under pressure of the order of this Court, the learned Family Court has thought it appropriate not to give further opportunity to the applicants. However, there cannot be any dispute that the order impugned has caused serious prejudice to the case of the applicants as she is not even permitted to lead evidence.

6. At this stage, learned counsel for the applicants submits that the applicants have filed four applications seeking direction against the various authorities as also against non applicant, which are still pending. The applicants will be able to furnish additional affidavit only upon receipt of information sought under the application.

7. In the circumstances, the applicants have made out a case. Hence, following order.

ORDER

- (i) The application is allowed.
- (ii) The impugned order dated 13.06.2023, passed by Family Court No.4, Nagpur below Exh.-1 in Petition No.E-18/2021 is quashed and set aside.
- (iii) The Family Court shall decide the pending applications on its own merits after giving opportunity of hearing to both the sides.

(iv) The applicants, however, shall thereafter promptly submit further affidavit on evidence and the parties shall cooperate with the Family Court to dispose of the application, as expeditiously as possible, and, in any case, on or before 31.05.2024.

Order accordingly.

(Anil L. Pansare, J.)

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