

CR-1634-2023 (O&M)

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

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CR-1634-2023 (O&M)

Date of decision : 04.07.2023

Neelam Malik

..... Petitioner

Versus

Anand Malik

..... Respondent

CORAM : HON'BLE MS. JUSTICE AMARJOT BHATTI

Present: Mr. KDS Hooda, Advocate
for the petitioner.

Mr. Virender Soni, Advocate
for the respondent.

AMARJOT BHATTI J. (ORAL)

Neelam Malik has filed revision against impugned order dated 22.02.2023 passed by learned Principal Judge (Family Court), Gurugram, whereby the defence evidence of petitioner wife has been closed by order.

2. It is pointed out that the marriage of the petitioner was solemnized with Anand Malik on 08.11.1995 and out of this wedlock, they have three children. On account of matrimonial dispute, Anand Malik filed the divorce petition which is contested by the present petitioner. Apart from this, multiple civil and criminal litigation has started between the parties which are detailed in para no. 7 of the petition. The learned Principal Judge (Family Court), Gurugram has closed the evidence of present petitioner/wife by order without any justification. The case was instituted in the year 2018 and the respondent – husband closed his evidence on 18.05.2022. Thereafter, the petitioner was not given sufficient time to complete her evidence and it was closed by order. It is pointed out that the present

petitioner is required to lead evidence and for that purpose she requires atleast three effective opportunities to conclude the evidence. It is prayed that the impugned order dated 22.02.2023 may be set aside and the present petitioner may be allowed to lead evidence in defence in the aforesaid divorce case.

3. The learned counsel for the respondent has opposed the application by taking the stand that the present petitioner Neelam Malik was afforded three effective opportunities to conclude her evidence but she failed. As per the impugned order dated 22.02.2023, the respondent did not want to face cross-examination through video call, even though it was last opportunity. Therefore, the learned Principal Judge (Family Court), Gurugram rightly closed the evidence of the present petitioner by order and now the case is fixed for rebuttal evidence, if any and for final arguments. It is pointed out that the petition filed by the petitioner is without justification.

4. I have considered the arguments and have gone through the record. The perusal of file shows that Anand Malik filed divorce petition against his wife Neelam Malik on 15.11.2018. As per order dated 18.05.2022, the petitioner Anand Malik closed his evidence and the case was fixed for evidence of respondent Neelam Malik for the first time on 21.07.2022. On this date, no witness was examined and it was further adjourned for 06.09.2022. The file was taken up on 01.09.2022 and the case was adjourned for 03.11.2022. On 03.11.2022, one witness was examined and it was adjourned for 03.12.2022. The file was again taken up on 02.12.2022 as the Presiding Officer was on leave and it was adjourned for 22.02.2023. On this date, the respondent did not want her cross-examination through video call and ultimately the learned Principal Judge (Family Court),

Gurugram closed the defence evidence of petitioner by order. Feeling aggrieved of this order, the present revision has been filed.

The aforesaid facts clearly indicates that Anand Malik was given sufficient time to lead his evidence. However, the present petitioner Neelam Malik was actually given three opportunities to lead her evidence, whereas, on two dates, the file was taken up as the Presiding Officer was to go on leave. It is in the interest of justice that the parties are given sufficient opportunity to lead their evidence, then only the case can be decided on merits after appreciating the facts and the evidence on record. It is a matrimonial case, thus marital status of the parties is to be decided. Therefore, the evidence of present petitioner is material for final adjudication of the case. She further wants to examine other witnesses to support her version. Therefore, in the interest of justice, the revision filed by the petitioner/wife Neelam Malik is allowed. The impugned order dated 22.02.2023 is set aside with the direction to the learned Principal Judge (Family Court), Gurugram to afford three effective opportunities to the petitioner Neelam Malik to conclude her evidence, subject to payment of cost of Rs. 5,000/- to be paid to respondent/husband Anand Malik.

The revision is accordingly, accepted.

(AMARJOT BHATTI)
JUDGE

04.07.2023
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No