

2023:PHHC:082819

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

CRR(F)-941-2023 (O&M)

Date of Decision: 03.07.2023

DINESH AHLUWALIA

... PETITIONER

VS.

ROOPA AHLUWALIA

.. RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present : Mr. Sehaj Bir Singh, Advocate
for the petitioner.

VIVEK PURI, J.(ORAL)

1. The petitioner has assailed the order dated 26.05.2023 passed by the Court of learned Additional Principal Judge, Family Court, Gurugram, vide which, the evidence of the petitioner was closed by order.

2. Learned counsel for the petitioner contends that the respondent has instituted a petition under Section 127 of the Code of Criminal Procedure for enhancement of maintenance. At the earlier instance, the respondent was awarded a sum of Rs.40,000/- on account of maintenance and the petitioner is not in arrears of maintenance. The case was fixed for the evidence of the petitioner for the first time in December, 2022. The petitioner has been afforded about four opportunities to produce the evidence. On 16.05.2023, two witnesses on behalf of the petitioner were examined and the case was adjourned to 26.05.2023. There is no mention in the said order with regard to granting last opportunity to the petitioner to produce evidence. The petitioner is working as a Pilot in Air India and on account of exigencies of service, he could not appear in the learned Family Court on 26.05.2023. An application for adjournment was also moved but the same was dismissed. It has been wrongly observed in the impugned

order that on 16.05.2023, the petitioner was given last opportunity to conclude his evidence as no such caution was given in the said order. The petitioner is ready and willing to conclude the evidence on one date of hearing.

3. It shall be appropriate that the controversy is adjudicated on merits by the learned Family Court after affording opportunity to the petitioner to lead evidence. For the lapse on the part of the petitioner, he can be burdened with costs.

4. Keeping in view the entire circumstances appearing in the case, the petitioner is granted one opportunity to produce the evidence at his own risk and responsibility subject to payment of Rs.20,000/- as cost to the respondent. The next date of hearing in the trial Court is stated to be 06.07.2023, on which date, the cost will be tendered and, thereafter, the learned Family Court will afford one effective opportunity to the petitioner to produce evidence at his own risk and responsibility.

5. The petition is being disposed of without issuance of notice to the respondent to avoid any further delay in disposal of the petition in the learned Family Court.

03.07.2023
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(VIVEK PURI)
JUDGE

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