

133 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Revision No. 4530 of 2023(O&M)
Date of Decision: 10.08.2023

Makhan Singh

...Petitioner

Versus

Manjit Kaur

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. R.K. Singla, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by petitioner/defendant for setting aside the impugned order dated 19.04.2022 (Annexure P-4) passed by the Court of learned Principal Judge, Family Court, Mansa, whereby evidence of petitioner has been closed by order and order dated 11.07.2023 (Annexure P-7) whereby the application filed by the petitioner for recalling him as a witness for the purpose of cross-examination has been dismissed by the said Court.

2. The counsel for the petitioner while challenging the impugned orders, submits that the petitioner is having marital dispute with respondent and petitioner filed divorce petition under Section 13 of Hindu Marriage Act and the same is being contested by respondents. It is further submitted that the petitioner has already made payment of Rs.3,00,000/- as maintenance to his wife during the aforesaid proceedings and only the cross examination of petitioner remains to be conducted but the learned Family Court closed the

evidence of the petitioner by order on 19.04.2022 and even the application filed by the petitioner to recall him as a witness for the purpose of his cross examination was also dismissed by the said Court vide order dated 11.07.2023. The counsel for the petitioner further submits that there was no intention on the part of the petitioner to delay the proceedings in divorce petition. The counsel for the petitioner further submits that it will cause prejudice to the petitioner in case permission is not granted to complete his testimony. So, prayer is made that that one more opportunity be granted to the petitioner to enable him to appear in the witness box for the purpose of his cross examination.

3. I have considered the submissions made by counsel for the petitioner.

4. The provision of Order 18 Rule 17-A CPC was deleted w.e.f. 01.07.2002. The purpose of deletion of said provision is to expedite trial of the case. However, even after deletion of said provision, the Court in exercise of power conferred under Section 151 CPC can allow any party to lead evidence even at a later stage, if it is necessary in the interest of justice. In this context, reference is made to decision of Hon'ble Supreme Court in **Salem Advocate Bar Association Tamil Nadu Vs. Union of India, 2005 (6) SCC 344**, wherein it has been held that inspite deletion of provision of Order 18 Rule 17-A CPC, the right to produce evidence at a later stage by way of additional evidence is not taken away, as the Court has always inherent power to exercise jurisdiction for advancement of justice in terms of provisions under Section 151 CPC.

5. In the instant case, the counsel for petitioner has given undertaking that he is ready to make the payment of entire arrears of

maintenance, in case the petitioner is granted one opportunity to conclude his evidence, as the statement of petitioner was partly recorded when the impugned order (Annexure P-4) was passed. It appears that there is no deliberate neglect or inaction on the part of the petitioner to conclude his evidence. In the given circumstances, interest of justice would be served if a final opportunity is given to the petitioner to conclude his evidence by examining the unexamined witnesses. But the same will be subject to payment of costs.

6. Accordingly, both the impugned orders are set aside and one last opportunity is granted to the petitioner to conclude his evidence subject to payment of arrears of maintenance and costs of Rs.10,000/- to be paid to opposite party on the next date fixed before the trial Court.

7. Keeping in view the circumstances mentioned above, this petition is being disposed of without issuing any notice to the opposite party. If respondent is summoned to contest this litigation, she will have to incur huge expenses to defend this case. However, liberty is granted to the respondent that if she feels dissatisfied with this order, she may move an application to recall the same.

10.08.2023

Jiten

(KARAMJIT SINGH)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No