

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4845 of 2023(O&M)
Date of Decision: 07.10.2023

Pooja Kumari

...Petitioner

Versus

Jitender

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Aman Redhu, Advocate
For the petitioner.**

**Mr. Jaivir Yadav, Senior Advocate with
Mr. Tarun Yadav, Advocate
Ms. Parul, Advocate and
Mr. Rohit Kumar Rana, Advocate
For the respondent.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner for setting aside order dated 24.07.2023 (Annexure P-5) passed by the Court of Principal Judge, Family Court, Gurugram whereby the evidence of the petitioner/ wife has been closed by order in a divorce petition having No. HMA/249-2018 titled Jitender Vs. Pooja.

2. The counsel for the petitioner submits that aforesaid divorce petition has been filed by the husband of the petitioner and due to certain unavoidable circumstances the petitioner was unable conclude her evidence and consequently impugned order dated 24.07.2023 has been passed by the Court concerned. The counsel for the petitioner further made prayer that one last opportunity be granted to the petitioner to conclude her evidence.

3. The present petition is resisted by the Senior counsel appearing for respondent who submits that respondent has already concluded his evidence and the petitioner availed number of opportunities to lead the evidence but she failed to examine any witness and thus, the Family Court concerned rightly passed the impugned order whereby the evidence of the petitioner is closed by order and there is no illegality or infirmity in the said order passed by the Family Court concerned. So, prayer is made that the present petition be dismissed.

4. I have considered the submissions made by counsel for the parties.

5. There is no doubt that the petitioner had already availed number of opportunities before the impugned order was passed by the learned trial Court. No doubt the provision of Order 18 Rule 17-A CPC was deleted w.e.f. 01.07.2002 but even thereafter the Hon'ble Supreme Court in **Salem Advocate Bar Association, Tamil Nadu Vs. Union of India (2005)6 SCC 344** held that in spite 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 inherent power under Section 151 CPC for advancement of justice.

6. In the instant case, testimony of petitioner is required for proper adjudication of the subject matter in dispute. The Court has to advance substantive justice and procedural technicalities should not be given precedence over the substantive justice. In the given circumstances, this Court is of the view that no prejudice is going to be caused to the other party if the petitioner is granted one last opportunity to conclude her evidence.

7. For the foregoing reasons, the present petition is allowed. The impugned order is set aside and one last opportunity is granted to the petitioner to conclude her evidence. The parties are directed to appear before the Family Court concerned on the date already fixed, for further proceedings.

(KARAMJIT SINGH)
JUDGE

07.10.2023
Jiten

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