

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

**Civil Revision No. 5028 of 2023(O&M)
Date of Decision: 01.09.2023**

Bhanu Priya

...Petitioner

Versus

Rajat Juneja

...Respondent

CORAM :HON'BLE MR. JUSTICE KARAMJIT SINGH

**Present:- Mr. Parmod Sharma, Advocate
For the petitioner.**

KARAMJIT SINGH, J.

1. The present revision petition has been filed by the petitioner for setting aside order dated 31.05.2023 (Annexure P-1) passed by the Court of Principal Judge, Family Court, Rewari whereby the evidence of the petitioner has been closed by order in a divorce petition having No. HMA/192/2018-DMC925-2022.

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 31.05.2023 has been passed by the Court concerned. That the impugned order is not sustainable as till date the application filed by the petitioner under Section 24 of Hindu Marriage Act has not been disposed of by the said Court. The counsel for the petitioner

further made prayer that one last opportunity be granted to the petitioner to conclude her evidence.

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

4. There is no doubt that the petitioner had already availed number of opportunities before the impugned order was passed by the learned trial Court. However, it appears that the learned Family Court has not decided the application filed by the petitioner under Section 24 of the Act *ibid* and proceeded ahead with the trial and finally passed the impugned order. It would have been more appropriate if before proceeding further with the divorce proceedings, the Court concerned should have passed order on application filed under Section 24 of the Act.

5. Further 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 just decision of the case. 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. In the meanwhile, the learned Family Court is also directed to dispose of an application filed by the petitioner under Section 24 of the Act in accordance with law at the priority basis without granting unnecessary adjournments in this regard.

8. Keeping in view the nature of order being passed, no notice is required to be issued to the respondent. However, if he feel dis-satisfied with this order, he may move an application to recall the same.

(KARAMJIT SINGH)
JUDGE

01.09.2023

Jiten

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No