

112.

2023:PHHC:145180

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

CR-6548-2023 (O&M)

Date of decision: 15.11.2023

ROHIT SHEORAN

.... Petitioner

Versus

REKHA

.... Respondent

CORAM: HON'BLE MR. JUSTICE GURBIR SINGH

Present: Mr. Parminder Singh, Advocate, for the petitioner.

GURBIR SINGH, J.

CM-20898-CII-2023

Prayer in this application filed under Section 151 CPC is to place on record list of witnesses as Annexure P-9.

For the reasons mentioned in the application, same is allowed and document Annexure P-9 is taken on record.

CR-6548-2023

1. Prayer in this revision petition filed under Article 227 of the Constitution of India is for setting aside the order dated 17.08.2022 (Annexure P-8) passed by learned Principal Judge, Family Court, Karnal, whereby the evidence of the petitioner has been closed.

2. The brief facts, as culled out from the petition, are that the petitioner-husband filed a petition under Sections 7, 10, 12, 17 and 25 of Guardian and Wards Act read with Sections 6 and 13 of Hindu Minority and

Guardianship Act, claiming the custody of minor son of the parties, being father and natural guardian. The other party contested the petition and filed reply.

3. After arguing for some time when faced with the situation that the petitioner has not stepped in the witness-box whereas he was required to do so first, learned counsel for the petitioner submits that he would be satisfied if one opportunity is granted to him to examine himself and he would not seek any other opportunity to lead evidence. He would move an application for admission and denial of documents and for production of documents, if necessary and will not examine any other witness.

4. Keeping in view the fact that technicalities should not come in the path of justice and if one opportunity is granted to the petitioner to examine himself, no prejudice would be caused to the other side, which may be compensated with costs.

5. If notice of this petition is given to the respondent-wife, then it may linger on the case and may cause financial burden on her.

6. So, in the interest of justice, present petition is disposed of and order dated 17.08.2022 (Annexure P-8) is hereby set aside, with a direction to the Family Court, Karnal to give one opportunity to the petitioner to examine himself but subject to payment of costs of Rs.2,000/- to the respondent-wife. If the petitioner moves any application for admission or denial or production of documents, same be disposed of as per law, but petitioner shall not seek adjournment on this ground for examining himself, the same be disposed of in accordance with law. It is further made clear that

petitioner shall not take it as a condition precedent for examining himself.

7. If the respondent-wife is not satisfied with this order, she can move an application for recalling of this order within 30 days.

(GURBIR SINGH)
JUDGE

November 15, 2023
sanjeev

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No