

CR-6989 of 2023

2023:PHHC:147302

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

CR-6989 of 2023

Date of decision: 20.11.2023

Bindu

.....Petitioner

Versus

Parveen

.....Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: - Mr. R.S. Dhull, Advocate,
for the petitioner.

NAMIT KUMAR, J.

1. This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order dated 16.10.2023 passed by learned Principal Judge, Family Court, Jind, whereby applications filed by the petitioner-wife for leading additional evidence and summoning the leave record of the respondent-husband have been dismissed with costs of Rs.10,000/- each.

2. Brief facts leading to the filing of the present revision petition are that marriage between the petitioner and the respondent was solemnised on 25.12.2015 at Jind. On 03.07.2018, respondent filed a petition under Section 13 of the Hindu Marriage Act in the Family Court at Hisar. On the petition filed by the petitioner-wife before this Court, the divorce petition was transferred to the Family Court at Jind vide order dated 02.05.2019. Evidence of the respondent-

CR-6989 of 2023

2023:PHHC:147302

husband was concluded on 03.12.2021 and evidence of the petitioner-wife was concluded on 02.04.2022. Thereafter, petitioner filed two applications i.e. one for leading additional evidence and second for summoning the leave record of the petitioner-husband. The said applications have been dismissed by learned Principal Judge, Family Court, Jind, vide impugned order dated 16.10.2023. Hence, this revision petition.

3. Learned counsel for the petitioner contended that the Family Court erred in dismissing the applications of the petitioner. He further contended that the evidence sought to be produced on record is of paramount importance as it goes to the root of the case. He further contended that the Family Court failed to appreciate that the leave certificate of the respondent was not with her and it came into her possession only on 14.11.2018. Learned counsel further contended that the costs of Rs.20,000/- (Rs.10,000/- in each application) is on the higher side.

4. I have heard learned counsel for the petitioner and perused the record.

5. Petitioner-wife filed application for leading additional evidence in the form of leave record of the respondent-husband. The basic condition to lead additional evidence is that the evidence sought to be led was not in her/his knowledge earlier or despite due diligence the same could not be proved on record. However, in the present case these conditions are not fulfilled by the petitioner as respondent filed

petition under Section 13 of the Act on 03.07.2018; pursuant to notice

CR-6989 of 2023

2023:PHHC:147302

in the said petition petitioner put in appearance on 11.09.2018 and evidence of the respondent-husband was concluded on 03.12.2021. It is the case of the petitioner-wife that she laid her hands on the leave record of the petitioner when she recovered the almirah on 14.11.2018. However, the said document was neither put to the respondent-husband in cross-examination nor any witness was summoned by the petitioner-wife in her evidence to prove the said document. Petitioner-wife failed to prove that the premise on which she moved the application for leading additional evidence was not in her knowledge when she received the notice of the petition. Respondent moved the present applications after a period of five years at the fag end of the proceedings. The Family Court has rightly observed that it is an attempt of the petitioner to impede the trial and would not serve any substantial purpose much less would provide any assistance to the Court. However, costs of Rs.20,000/- (Rs.10,000/-) imposed by the Family Court while dismissing the application is on the higher side. Therefore, the costs are reduced to Rs.5,000/- only.

6. The impugned order passed by the Family Court is quite detailed and well-reasoned and it does not suffer from any illegality or infirmity and is not having any element of arbitrariness or perversity. The revisional jurisdiction of this Court is quite limited and considering the facts and circumstances of the case, there is no reason to interfere with the impugned order by way of exercising the revisional jurisdiction.

CR-6989 of 2023

2023:PHHC:147302

7. Finding no merit in the revision petition, the same stands dismissed with above modification.

20.11.2023
R.S.

(NAMIT KUMAR)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether Reportable

:

Yes/No