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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 02.05.2023

+ CM(M) 712/2023
SHRADDHA GUPTA

..... Petitioner

Through: Mr.Prashant Mendiratta with Mr.
B.Venkatraman, Mr. Anirudh Mudgal
& Ms. Aditi Chaudhary, Advs.

versus

SUMIT JAIN

..... Respondent

Through: Respondent in person.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

CM APPL. 22299/2023

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM(M) 712/2023 & CM APPL. 22298/2023 (stay)

3. The present petition preferred by the wife, who is the respondent in HMA No.181/2023, assails the order dated 26.04.2023 passed by the learned Family Court, Patiala House, New Delhi. Vide the impugned order, the learned Family Court has directed that the petitioner's application seeking recall of order dated 20.04.2023, vide which her right to further cross-examine PW-1, her husband, was closed, would be decided at the time of final arguments.
4. Learned counsel for the petitioner submits that in case the petitioner is

compelled to lead her evidence before completing the cross-examination of PW-1, grave and irreparable prejudice would be caused to her. He therefore prays that the petitioner's application for recall of order dated 20.04.2023 be allowed and the petitioner be granted an opportunity to further cross-examine PW-1, before tendering her evidence.

5. He further submits that since nine issues have been framed by the learned Family Court, the nature of further cross-examination of PW-1 by the petitioner's counsel will depend on the answers given by PW-1. He, consequently, urges that the petitioner be granted at least three more dates for completing the cross-examination of PW-1.

6. Issue notice. The respondent, who appears in person, accepts notice and fairly submits that he has no objection to the petitioner's application for his further cross-examination being allowed. He, however, prays that the petitioner be directed to complete the cross-examination in a time bound manner, within the time as may be deemed appropriate by this Court.

7. Having considered the submissions of learned counsel for the petitioner as also the stand taken by the respondent, I am of the considered view that the impugned order, insofar as it directs that the petitioner's application for recall of PW-1 for cross-examination would be taken at the time of final arguments, is unsustainable. There is merit in the petitioner's plea that if she is compelled to tender her evidence before completing the cross-examination of the respondent/ PW-1, her defence itself is likely to be compromised.

8. Even though Learned Counsel for the Petitioner has vehemently urged that the petitioner be granted at least 3 dates for further cross-examination of PW1, I am of the opinion that taking into account the fact that the petitioner

had already cross-examined PW-1 earlier at length and it is only by way of an indulgence that this Court is granting a further opportunity to the petitioner to cross-examine PW1, the said cross-examination ought to be completed at the earliest. I may also note that the Apex Court had, vide its order dated 08.09.2022, directed the Family Court to dispose of the matter at the earliest and preferably within a period of six months, which period has long expired. I am therefore of the considered view that the petitioner cannot be permitted to endlessly cross-examine PW-1. It would therefore be in the interest of justice that the petitioner is granted only two more dates to cross-examine the respondent/PW1.

9. The petition is accordingly allowed by setting aside the impugned order to the aforesaid extent and directing the learned Family Court to grant two dates to the petitioner for further cross examination of PW-1. It is further directed that the petitioner would not be required to tender her evidence before completion of the cross-examination of PW-1, in terms of this order. The learned Family Court will also ensure that the cross examination by the petitioner is completed at the earliest without granting any undue adjournments to any of the parties.

10. The petition is, accordingly, disposed of.

(REKHA PALLI)
JUDGE

MAY 2, 2023
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