



\$~26

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10.07.2023

+ CM(M) 1033/2023
MS PUJA GULATI

..... Petitioner

Through: Mr.Nalin Tripathi, Adv.

versus

COL ARUN GULATI

..... Respondent

Through: Mr.Attin Shankar Rastogi, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

NAVIN CHAWLA, J. (ORAL)

CM APPL. 34317/2023

1. Though, the petitioner has filed an Amended Petition and the Amended Synopsis and List of Dates, the learned counsel for the petitioner submits that due to inadvertence, ground 'D' containing the unfounded allegations still remains. He prays that the same be expunged from the record. He apologises for the same.

2. Ground 'D' of the Amended Petition shall therefore stand expunged from the record. Irrespective of the outcome of this petition, the petitioner shall file a fresh Amended Petition deleting the said averments.

3. The application is allowed with the above direction.

CM(M) 1033/2023 & CM APPL. 33654/2023

4. This petition has been filed by the petitioner challenging the order dated 31.05.2023 passed by the learned Family Court-02, West,

Signature Not Verified

Digitally Signed by SUNIL

Signing Date: 12.07.2023

16:48:31

CM(M) 1033/2023

Page 1 of 4



Tis Hazari Courts, Delhi, rejecting the objections of the petitioner to the continuation of the recording of the evidence before the learned Local Commissioner, and directing that the recording of the evidence shall continue before the learned Local Commissioner.

5. The learned counsel for the petitioner submits that while appointing the learned Local Commissioner to record the evidence of the parties, it had been directed that the cross-examination of the petitioner should be completed within 45 days from the first day of recording of the evidence. The learned counsel for the petitioner submits that though the said period was over and more than 430 questions were put to the petitioner during the course of her cross-examination and, in fact, she has been cross examined for more than 16 dates, there is no end to the cross-examination in sight. The learned counsel for the petitioner submits that the petitioner is incurring huge costs which have to be borne from the maintenance that has been awarded in her favour. He submits that, therefore, the petitioner had insisted with the learned Family Court that the evidence be recorded in the Court itself so that the Court can also keep proper checks and balances on the cross-examination.

6. On the other hand, the learned counsel for the respondent, who appears on advance notice, submits that as the petitioner has not been cooperating in the cross-examination, further questions were required to be asked. He submits that the learned Local Commissioner was appointed to record the evidence of the parties so that there is an expeditious disposal of the divorce petition filed by the respondent.

He submits that he has been bearing the entire cost of the recording of the evidence before the learned Local Commissioner and, therefore, it



is not in his interest to delay the same by asking irrelevant questions to the petitioner.

7. Learned counsel for the respondent, without prejudice to his submissions, submits and further undertakes that the cross-examination of the petitioner would be completed in a maximum of three dates, with each session of recording of evidence being at least two hours. He submits that he shall ensure that the cross-examination of the petitioner is completed within the abovementioned period, failing which, he shall have no objection if the recording of the evidence is taken up by the learned Family Court itself and the mandate of the learned Local Commissioner is terminated.

8. The learned counsel for the petitioner agrees to the above undertaking and submits that even the petitioner shall cooperate with the learned Local Commissioner for recording of the evidence and in the completion of the cross-examination.

9. In view of the above, it is directed that the learned Local Commissioner shall fix three dates for completion of the cross-examination of the petitioner, with each session lasting not less than two hours.

10. At the request of the learned counsel for the petitioner, the time for recording of the evidence be fixed post-lunch on each of these three dates.

11. The respondent shall ensure that the cross-examination of the petitioner is completed within the above stipulated period, failing which, the further cross-examination of the petitioner shall be recorded before the learned Family Court.

Signature Not Verified

Digitally Signed By: SUN

Signing Date: 12.07.2023

16:48:31

The entire expenses of the learned Local Commissioner shall be

CM(M) 1033/2023



borne by the respondent and the other terms and conditions as mentioned in the order dated 16.03.2023 passed by the learned Family Court shall continue.

13. The petition and the pending applications are disposed of in the above terms.

NAVIN CHAWLA, J

JULY 10, 2023/Arya/am

[Click here to check corrigendum, if any](#)



Signature Not Verified

Digitally Signed By: SUNIL

Signing Date: 12.07.2023

16:48:31

CM(M) 1033/2023