



2023:DHC:8126



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 08.11.2023***+ **C.R.P. 263/2023**

NITIKA TALWAR

..... Petitioner

Through: Ms.Akanksha Rai, Adv.
(through VC)

versus

DINESH TALWAR

..... Respondent

Through: Mr.Sanjay Dewan, Mr.Anish
Dewan and Ms.Shivani Purthi,
Adv.**CORAM:****HON'BLE MR. JUSTICE NAVIN CHAWLA****NAVIN CHAWLA, J. (ORAL)**

1. This petition has been filed challenging the order dated 08.08.2023 (hereinafter referred to as 'Impugned Order') passed by the learned Judge, Family Court-01, West District, Tis Hazari Courts, Delhi (hereinafter referred to as the 'Family Court') in HMA No. 437/2021, titled *Dinesh Talwar v. Nitika Talwar* (hereinafter referred to as the 'Divorce Petition'), allowing the application filed by the respondent herein, who is the petitioner in the Divorce Petition under Order I Rule 10 of the Code of Civil Procedure, 1908 (in short, 'CPC'), impleading one



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Mr.Ritesh Rai as the respondent no.2 in the Divorce Petition, and granting liberty to the respondent herein to amend the Divorce Petition, if he so desires.

2. The grievance of the petitioner against the Impugned Order is that in the Divorce Petition, as it stands today, there is no averment of adultery made by the respondent against the petitioner. The learned counsel for the petitioner submits that, in the absence of any such allegation/averment, the impleadment of Mr.Ritesh Rai as the respondent no.2 was not warranted. She further submits that the learned Family Court has granted an ambiguous and open-ended liberty to the respondent herein to amend his Divorce Petition. She submits that such liberty in ambiguous terms could not have been granted.
3. On the other hand, the learned counsel for the respondent submits that the allegations of adultery have been made in the application filed under Order I Rule 10 of the CPC.
4. Without prejudice to the rights and contentions of the rights of the respondent herein, the learned counsel for the respondent, however, fairly admits that the proper course for the learned Family Court was to seek an application from the respondent under Order VI Rule 17 of the CPC before adjudicating on the application under Order I Rule 10 of the CPC to implead Mr.Ritesh Rai as a party respondent in the Divorce Petition.



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5. In view of the above, the Impugned Order dated 08.08.2023 is set aside, and the application filed by the respondent herein under Order I Rule 10 of the CPC is restored back to its original number before the learned Family Court, to be decided afresh by the learned Family Court.
6. The respondent is at liberty to file an application under Order VI Rule 17 of the CPC seeking an amendment to his Divorce Petition. The same shall be considered by the learned Family Court as and when it is filed, in accordance with law and upon hearing the parties.
7. The learned Family Court shall remain uninfluenced by any observations made in the Impugned Order or in the present order while deciding such applications.
8. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

NOVEMBER 8, 2023/ns/AS

Click here to check corrigendum, if any