

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

135

CR-209-2024 (O&M)
Decided on: 15.01.2024

SMT. SUMEDHA

...Petitioner

Versus

KISLAY GARG

...Respondent

CORAM: HON'BLE MRS JUSTICE RITU TAGORE

Present: Mr. Sanyam Khetarpal, Advocate
for the petitioner.

RITU TAGORE, J.(Oral)

CM-633-CII-2024

Application is allowed as prayed for.

CR-209-2024

1. This is a revision filed by the petitioner, challenging the order dated 08.12.2023 (Annexure P-2) passed by learned Principal Judge, Family Court, Faridabad, dismissing her application under Order 8 Rule 9 CPC read with Section 10(3) of Family Courts Act, 1984 for placing on record an additional written statement. The petitioner further seeks to set aside an order dated 02.01.2024 (Annexure P-3) by which costs of Rs.3000/- were imposed upon her.
2. Learned counsel for the petitioner submits that the respondent filed a petition bearing No.GW/43/2018 (Annexure P-1) under Section 25 of Guardian and Wards Act, 1890 for the custody of minor child, aged about 2 years by taking several pleas as mentioned therein.

3. Learned counsel contends that the learned Family Court in an unjustified manner without taking into account the facts, dismissed the application of the petitioner for placing on record the additional written statement, whereby the petitioner wanted to bring on record material additional facts and some crucial evidence pertaining to the medical record of the respondent who is known to be suffering from bipolar disorder. It is contended by the learned counsel for the petitioner that aforesaid evidence was very crucial for properly assessing the respondent's mental health bearing material impact on deciding the issue of custody of the minor. Similarly, the FIR No.712 of 2021 under Sections 323/452/506 IPC at Police Station Sector 7, Faridabad against the respondent was necessary to be brought on record, being registered against him, after filing of the written statement by the petitioner. Learned counsel submits that the aforesaid evidence being subsequent in nature and pivotal in determining the child's welfare and suitability of the respondents' custodial rights, has been illegally scuttled by the learned Family Court by dismissing her application in question.

4. Learned counsel further contends that without paying any heed to the genuine request of the petitioner for an adjournment on ground that she had already approached the Hon'ble High Court against the order dated 08.12.2023, learned Family Court in an unreasonable manner imposed costs of Rs.3000/- upon the petitioner. Learned counsel thus submits that the impugned orders be set aside and petitioner be given the opportunity to place on record the additional facts by way of additional written statement.

5. I have heard learned counsel for the petitioner and have gone through the paper-book.

6. From the paper book and the documents placed on record, it is revealed that respondent (husband of the petitioner), has filed a petition (Annexure P-1) under Section 25 of Guardian and Wards Act, 1890 for the custody of the minor child.

7. Perusal of the impugned order dated 08.12.2023 indicates that the petitioner has already filed her written statement taking all available pleas and by way of the application in hand, she wanted to file additional written statement in order to incorporate certain relevant facts and place certain material documents, which allegedly came into her knowledge subsequent to the filing of the written statement as earlier they were not in her knowledge and possession. Similarly, the incident dated 21.11.2021 allegedly committed by the respondent of house-trespass and attempt to kill the petitioner and the minor, happened during the pendency of the petition before the trial Court and after filing of her written statement.

8. Nonetheless, perusal of the impugned order dated 08.12.2023 does not indicate that the learned Family Court has foreclosed the right of the petitioner to lead the above said evidence. The order of the Learned Family Court is reproduced for ready reference. Learned Family Court has concluded that **“all such subsequent events can be brought to the notice of the Court and can be proved at the subsequent stage of evidence because these events are continuing links of same chain. If additional pleadings are allowed to be brought on record in continuous manner, the pleadings would never end and case would take a considerable time for reaching its conclusion. Therefore, application is dismissed”**.

9. In view of the reasoning given by the learned Family Court, in fact, there subsists no grievance for the petitioner as she has been given the

right to place on record the aforesaid facts and documents during her evidence. Thus, I find no illegality in the order dated 08.12.2023.

10. Upon perusing the impugned order dated 02.01.2024, it becomes apparent that two witnesses of the respondent were present in the Court when adjournment was sought on behalf of counsel of the petitioner on the ground that the petitioner (respondent before the Family Court) had preferred an appeal against the order dated 08.12.2023 and it deemed impractical to proceed with the cross-examination of witnesses until the appeal pending before the Hon'ble High Court, was decided. The impugned order also discloses that learned Family Court had pointed out to the learned counsel for the petitioner that the case was old and adjournment on such unjustified ground was impermissible. Further, there was no stay in the proceedings of the case and non-grant of the permission to the petitioner in filing additional written statement would not impact petitioner's right as respondent (petitioner before this Court) has not pleaded for filing any additional petition. The order further reveals that despite that, counsel for the petitioner persisted in seeking adjournment on the aforementioned grounds and eventually refused to conduct cross-examination on the witnesses. Taking into account the above-said conduct, the learned Family Court imposed Rs.3,000/- as costs upon the petitioner, which were made conditional for cross-examining the respondent and his witnesses on the next date of hearing.

11. Having considered the impugned order, in my considered view there is no illegality in the same. It is bounden duty of all the stake holders i.e. the parties, their witness/es and counsels of the respective parties to cooperate with the Courts in deciding their matter in a time bound manner.

The Courts are empowered to impose appropriate costs when it finds that the

conduct of the parties is such which causes undue delay in the progress of the adjudication of the case on untenable grounds. Given the facts, the ground on which adjournment was sought by the petitioner was not justified.

12. In view of the above, it is held that the order dated 02.01.2024 (Annexure P-3) about imposition of the costs on the petitioner is justified.

13. In view of the above, the present revision petition has no merit and thus stands dismissed.

CM-634-CII-2024

In view of the dismissal of the main revision petition, the present application for stay has been rendered infructuous and, therefore, the same is disposed of as such.

(RITU TAGORE)
JUDGE

15.01.2024
Rimpal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No