

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

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CRR(F)-172-2024 (O&M)
Date of decision: 06.02.2024

Karan Singh ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. M. N. Jajoria, Advocate
for the petitioner.

MANISHA BATRA, J. (Oral)

1. CRM-5553-2024

Allowed as prayed for.

Leave granted.

2. CRR(F)-172-2024 (O&M)

The present revision petition has been filed against the order dated 07.12.2023, passed by the Principal Judge, Family Court, Bhiwani in maintenance petition bearing No. MNT125/338/2021, titled as *Smt. Neeraj and another vs. Karan Singh*, whereby the evidence of the petitioner has been closed by Court order.

3. Learned counsel for the petitioner has submitted that respondent No. 2 was married to the present petitioner on 29.08.2016 and out of the wedlock, a son has been born. However, a matrimonial discord arose between the parties and respondent No. 2 along with minor child is living separately. She had filed the aforesaid maintenance petition, which is pending before the Principal Judge, Family Court, Bhiwani. Vide impugned order dated 07.12.2023, the petitioner (respondent in the maintenance petition) had moved

an application for allowing him to engage a counsel, which was allowed by the Family Court, subject to the condition that his counsel shall appear on each and every date of hearing without any default. However, an adjournment was sought on behalf of the petitioner but his evidence was closed by Court's order by observing that he had already availed sufficient opportunities including opportunities to conclude his entire evidence. It is further submitted that the petitioner had never availed any other opportunity to lead his evidence. The evidence on his behalf is very material for the just and proper decision of the case. He has also argued that it is well settled law that the right to lead evidence is an important right given to the parties to a *lis* and the Court should not be hyper-technical in closing the evidence. The case is now fixed for 19.03.2024. He has, therefore, prayed that the petitioner may be granted one more opportunity to lead his evidence.

4. I have heard learned counsel for the petitioner and have also perused the material placed on record.

5. The petitioner has been arrayed as the respondent in the aforementioned maintenance petition filed by respondent No. 2. He had put in appearance before the Court and by moving an application, he had sought permission to engage a counsel, which was allowed by the Court, subject to certain conditions. He had sought an adjournment but his evidence was closed by the Court's order by observing that despite availing several opportunities, he had failed to conclude his evidence. The petitioner has pleaded before this Court that he has not been accorded sufficient opportunities. It is well settled proposition of law that no party should be condemned unheard. The primary duty of the Court is to reach as close to the truth as possible by obtaining proper proof of such facts which would lead to a just and correct decision of

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the case, which cannot be done without giving an opportunity to the petitioner to lead his evidence. The Courts are under legal obligation to make every possible effort, in the given fact situation of each case, to reach the truth so as to enable itself to arrive at a just decision for achieving the laudable object of doing substantial justice between the parties. The above conduct of the petitioner is certainly indicative that he has been negligent in pursuing his case. However, the negligence of the petitioner is not of the kind which would leave him with such consequence. Hence, this Court is of the considered opinion that the present petition deserves to be allowed.

6. Accordingly, the present petition is allowed. The impugned order dated 07.12.2023 is hereby set aside. The Family Court, Bhiwani is directed to accord one effective opportunity to the petitioner to lead his evidence. The petitioner will lead and conclude his evidence on the next date of hearing i.e. 19.03.2024.

7. This order, however, will be subject to payment of costs of Rs. 20,000/-, to be paid by the petitioner to respondent No. 2-Neeraj.

06.02.2024

Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No