



CR-3205-2024 (O&M) -1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CR-3205-2024 (O&M)
Date of decision:27.05.2024

Joginder Kaur

... Petitioner

Vs.

Gurupdesh Singh & others

... Respondents

CORAM: HON'BLE MRS. JUSTICE SUKHVINDER KAUR.

Present: Mr. Pushpinder Kaushal, Advocate for the petitioner.

...

SUKHVINDER KAUR, J.

1. The instant revision petition has been filed by the plaintiff/petitioner against the order dated 09.01.2024 (Annexure P-4) passed by the Civil Judge, Senior Division, Mohali, whereby evidence of the petitioner was closed by order and consequent order dated 01.05.2024 (Annexure P-7), whereby application for recalling of the said order was dismissed.

2. Brief facts material for adjudication of the present revision petition are that the petitioner/plaintiff has filed a suit bearing CS No.236 of 2020 on 16.03.2020 against the respondents/defendants seeking relief of declaration to the effect that the compromise deed dated 19.06.2002 affected between the plaintiff and defendants No.1 and 5 be declared as null and void, as the same had been affected by defendant No.1 fraudulently, by misrepresentation and by concealing and suppressing the



material facts of his second marriage with defendant No.2 as well as the birth of defendants No.3 & 4 out of the said wedlock, on the basis of oral and documentary evidence. Further declaration has been sought to the effect that the joint petition filed by the plaintiff and defendant No.1 under Section 13-B of the Hindu Marriage Act, 1955 for dissolution of marriage between the plaintiff and defendant No.1 by a decree of divorce with mutual consent be declared null and void as the same had been got filed by defendant No.1 from the petitioner fraudulently. Declaration was also sought to the effect that the statement dated 21.09.2002 suffered by the plaintiff before the Lok Adalat, Patiala on the basis of compromise deed dated 19.06.2002 be declared as null and void and the impugned order dated 21.09.2002 passed by the Lok Adalat, Patiala, whereby the marriage of the plaintiff and defendant No.1 was dissolved forthwith on the basis of the compromise dated 19.06.2002 and statement dated 19.06.2002 be declared as null and void as the consent of the plaintiff was taken by defendant No.1 by suppressing the material facts of performing second marriage with defendant No.2 and the birth of a son and daughter i.e. defendants No.3 and 4 out of the said wedlock and the said impugned order dated 21.09.2002 passed by the Lok Adalat, Patiala is unlawful and against the provisions of the Hindu Marriage Act, 1955.

3. Upon notice having been issued, defendants appeared and filed their written statements. Issues were framed by the trial Court on 24.01.2023. Thereafter, the evidence of the plaintiff/petitioner commenced. Vide application dated 23.03.2023, the plaintiff/petitioner

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had deposited the diet money for summoning four witnesses and out of those four witnesses, two witnesses i.e. the concerned official of Chairperson, Punjab State Commission for Women and Halqa Patwari, Samana had been examined and the other two witnesses are yet to be examined. Thereafter, vide the impugned order dated 09.01.2024, the trial Court has closed the evidence of the petitioner/plaintiff by order. Against the said order, the plaintiff/petitioner has moved an application under Section 151 CPC for recalling of the aforesaid impugned order, which was also dismissed by the trial Court vide order dated 01.05.2024. Aggrieved against the said orders, the revision petitioner/plaintiff has knocked the the doors of this Court by way of filing of the present revision petition.

4. Learned counsel for the petitioner has contended that the impugned orders suffer from patent illegality and perversity. He has submitted that the trial Court has failed to appreciate the fact that the petitioner is an old lady, aged about 73 years. He has further contended that the petitioner was to examine four witnesses, out of which, two have already been examined and two are yet to be examined, whose diet money had already been deposited by the petitioner/plaintiff and once the diet money of the witnesses had been deposited, then the trial Court ought not to have closed the evidence of the petitioner/plaintiff. He has submitted that in case she is not granted an opportunity to examine the material witnesses, then the same would cause irreparable loss to her and therefore, she she may be granted one effective opportunity to examine the aforesaid



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two material witnesses.

5. I have heard learned counsel for the petitioner at length and have perused the pleadings on record

6. Perusal of the impugned order reveals that the petitioner despite of specific directions and granting of last opportunity by the trial Court vide order dated 05.12.2023, failed to examine the aforesaid two material witnesses and only thereafter the evidence was closed by the trial Court vide the impugned order dated 09.01.2024 (Annexure P-4).

7. Though there is no infirmity in the impugned orders, yet it will be appropriate and in the interest of justice, if one effective opportunity is given to the petitioner to conclude her entire evidence. The other party can be well compensated with costs. Therefore, the impugned orders are set aside. The trial Court is directed to grant one effective opportunity to the petitioner to conclude her entire evidence at her own responsibility subject to payment of costs of Rs.8,000/- to be paid to the respondents.

8. Revision petition is allowed in the aforesaid terms.

9. Pending application(s), if any, shall also stand disposed of.

(SUKHVINDER KAUR)
JUDGE

27.05.2024
harjeet

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |