



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

126

CR-3297-2024

Date of Decision: 28.05.2024

Sandhya Devi

...Petitioner

Versus

Rajan Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:- Mr. Rajesh Malik, Advocate,
for the petitioner.

VIKAS SURI, J.

1. This is a petition under Article 227 of the Constitution of India seeking setting aside of the order dated 15.02.2024, passed by Additional Principal Judge, Family Court, Sonipat, whereby evidence of the petitioner has been closed by order of the Court, with a further prayer that one effective opportunity be granted to the petitioner to lead her entire evidence.
2. The facts in brief are that the respondent-husband has filed a petition under Section 13 (1)(ia) of the Hindu Marriage Act, 1955 (for short 'HMA') for dissolution of marriage by a decree of divorce. The aforesaid petition was instituted on 04.03.2021 and the issues were framed on 25.05.2023. The respondent-husband closed his evidence on 05.08.2023 and the matter was adjourned to 02.09.2023 for recording the wife's evidence. Thereafter, the respondent-wife before the Family Court (petitioner herein), was granted several opportunities to lead her evidence and she having failed



to do so, her evidence was closed by order of the Court.

3. Learned counsel for the petitioner submits that the petitioner is totally dependent upon her parents. The petitioner's father is serving in the Indian Army at the post of Subedar in Assam Rifles and thus, it is very difficult for him to take leave and on that account for want of family support, the petitioner is handicapped to effectively contest the divorce proceedings. The petitioner has no independent source of income and the application filed by her under Section 125 Cr.P.C. for grant of maintenance is still pending and the application filed under Section 24 of HMA stands disposed of without adjudication. The request for adjournment made by the counsel for the petitioner was declined and her evidence was closed by order of the Court vide impugned order dated 15.02.2024 (Annexure P-2).

4. Learned counsel for the petitioner contends that the petitioner could not lead evidence for the reasons mentioned above, which were beyond her control. It is, thus, submitted that the Family Court has wrongly passed the order closing evidence of the petitioner and that she deserves to be granted an opportunity to conclude her evidence. It is further submitted that the proceedings are now pending for 30.05.2024.

5. Heard learned counsel for the petitioner and perused the paper-book.

6. For the reasons, as are mentioned hereinabove, the main petition is taken up for final hearing without issuing notice to the other party as on doing so, it would not only delay the proceedings but unnecessarily



burden the opposite party with expenses to cause appearance in the present petition.

7. In the present case, a perusal of the *zimni* orders produced in Court by the learned counsel for the petitioner shows that despite having availed six opportunities, the petitioner-wife has failed to lead/conclude her evidence. The right to lead evidence is pivotal to a fair trial and partakes the character of natural justice and fair play. It is well settled law that procedural laws are the handmaids of justice and not the mistress. At this stage, learned counsel for the petitioner submits that out of the above noticed opportunities granted for leading evidence, two were non-effective opportunities, as Bar Association had suspended the work. It is not disputed that the petitioner-wife is not being supported by the respondent-husband and she also has the responsibility of one minor daughter. The petition filed by her under Section 125 Cr.P.C. for grant of maintenance is still pending and the application filed under Section 24 of HMA for maintenance *pendente lite* has been disposed of vide order dated 22.05.2023 holding that it would be appropriate if the claim of the petitioner herein, is first adjudicated in the petition under Section 125 Cr.P.C.

8. In the aforementioned background, learned counsel for the petitioner contends that the petitioner would conclude her entire evidence if one more effective opportunity is granted.

9. In the light of the above, in my considered view, ends of justice would be adequately met if one more effective opportunity is granted to the



petitioner to lead her entire evidence, on a date to be fixed by the Family Court. For the inconvenience caused to the other side, the respondent can be compensated with costs, however, keeping in view the conduct of the respondent-husband that he is not supporting the petitioner-wife and on the contrary even opposed her application seeking maintenance *pendente lite*, the costs deserve to be waived off.

10. In view of the above, the present revision petition is disposed of by setting aside the impugned order dated 15.02.2024 (Annexure P-2) and directing the Family Court concerned to grant one effective opportunity to the petitioner-wife to adduce her entire evidence on any date convenient to the said Court, beyond the date already fixed.

11. The revision petition is disposed of in the aforesaid terms.

May 28, 2024
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(VIKAS SURI)
JUDGE

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