



108

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRR(F)-1067-2024 (O&M)**
Date of decision: 23.08.2024

Indu Kalsi and another

....Petitioners

Versus

Sandeep Singh Kalsi

...Respondent

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR**Present:** Mr. Damanjit Sandhu, Advocate for
Mr. Monty Goyal, Advocate
for the petitioner.**HARPREET SINGH BRAR, J. (ORAL)**

The present revision petition has been filed for setting aside the impugned order dated 19.07.2024 passed by the learned Principal Judge (Family Court), Ludhiana Camp Court at Khanna.

Learned counsel for the petitioner *inter alia* contends that when petitioner No.1 was subjected to cross examination, she came to know that her counsel has not mentioned her proper details about the property which was purchased by her and EMI @ Rs.42,000/- approximately per month is being paid by her from her salary. The inadvertent mistake has occurred due to the lapse of her counsel as he got the affidavit attested without mentioning the proper details in it and in her cross examination, she has admitted voluntarily about the things which are in her possession. Thereafter, she has changed her counsel and in the interest of justice to prove her case, she filed an application for submitting additional affidavit of her income, assets and liabilities. However, the learned Court below has dismissed the application without even examining the fact that whether such affidavit is just and essential for the

**CRR(F)-1067-2024****-2-**

decision of the case and only ground on which it was dismissed is that the trial will never come to an end if the said application is allowed as the parties will continue to present new facts and other party would want to cross examine the same.

Learned counsel for the petitioner further relies upon the judgments of this Court passed in 'Mohd. Nazir Vs. Mohd. Ilyas' CR No.312 of 2014 decided on 11.02.2016 and 'Tosiba Industries Ltd. and others Vs. State of Haryana and another' 2016 (1) R.C.R. (Criminal) 683.

In view of the facts and circumstances of the case, it is settled law that nobody can be deprived to bring on record the evidence which would assist the trial Court in adjudicating the matter in just and proper manner. Petitioner No.1 who is 45% physically disabled has herself come forward to bring all the facts necessary for the adjudication and she was not made aware by her counsel regarding the contents of the affidavit. When she learned that some of the actual facts have been omitted in the earlier filed affidavit, she immediately moved an application for an additional evidence. Denial of an opportunity to petitioner No.1 to present the best available evidence or have an effective and substantial hearing, in order to prove his/her defence, which is in direct violation of the right to free and fair trial enshrined under Article 21 of the Constitution of India as well as the principles of natural justice.

Having heard the learned counsel for the petitioners and after perusing the record with his able assistance, the present petition is being decided in limine, without issuing notice to the respondent, in order to save litigation cost of the respondent and judicial time of the Court and in the

interest of justice, no prejudice would be caused to the respondent in case the petitioner is granted liberty to file additional affidavit with correct figures and facts, as he would have the opportunity to cross examine the petitioners.

In view of the above, the present petition is allowed and the impugned order dated 19.07.2024 is hereby set aside and the learned trial Court is directed to give one more opportunities to the petitioners to file additional affidavit subject to costs of Rs.2,000/- payable to the respondent.

(HARPREET SINGH BRAR)
JUDGE

23.08.2024
Neha

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