



2024:DHC:6379-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 14.08.2024*+ **MAT.APP.(F.C.) 260/2024**

ANURADHA KASHYAPAppellant

Through: Ms Preeti Singh, Adv.

versus

DR SUSHIL KUMARRespondent

Through: None.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MR. JUSTICE AMIT BANSAL****[Physical Hearing/Hybrid Hearing (as per request)]****RAJIV SHAKDHER, J (ORAL):****CM Appl.46743-44/2024**

1. Allowed, subject to just exceptions.

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2. This is the second round of litigation for the appellant.

3. The appellant had approached this Court by way of an appeal, i.e., MAT. APP. (F.C.) 109/2024 on the previous occasion, against an order dated 09.02.2024 passed by the Family Court.

4. The grievance articulated in MAT.APP. (F.C.) 109/2024 was that the appellant's right to cross-examine the respondent [i.e., PW-1] had been closed by the Family Court.

5. At that juncture, we had taken a rather broad view of the matter and

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granted liberty to the appellant to cross-examine the respondent [PW-1] on the date fixed before the Family Court. Consequently, we had also imposed costs of Rs.7500/- which the appellant was directed to pay to the respondent.

5.1 We are told that the costs have been paid to the respondent.

6. Consequent thereto, the Family Court, on the date already fixed, i.e., 09.04.2024, allowed the appellant's counsel to cross-examine the respondent [PW-1].

7. Ms Preeti Singh, who appears on behalf of the appellant, concedes that the respondent [PW-1] was crossed-examined on 09.04.2024 for about one and a half hour. On that date, the Family Court posted the matter for further cross-examination of the respondent [PW-1] on 03.05.2024.

7.1 On 03.05.2024, the Family Court did not convene and accordingly, the matter was posted for further proceedings, i.e., for cross-examination of respondent [PW-1] on 03.06.2024.

7.2 Strangely, on 03.06.2024, on behalf of the appellant, an application was tendered by the intern of Ms Singh seeking liberty to cross-examine the respondent [PW-1] *via* video conferencing [VC].

7.3 Ms Singh informs us that she joined the proceedings through VC to cross-examine the respondent *vis à vis* the aforementioned application.

8. The reason given for tendering the application was that because of the rising temperature in Delhi and the number of deaths that had taken place due to heat stroke, the respondent and the counsel, as a precautionary measure, had moved an application for continuing the cross-examination through VC.

9. Ordinarily, one could have found no fault with such requests. However, given the backdrop, it is clear that an attempt has been made to



delay the proceedings.

10. The learned Family Court Judge has noticed in the impugned order, that the application was accompanied by an affidavit, which was attested on the same date when the proceedings were fixed, i.e., 03.06.2024.

11. It was, thus, evident from the Family Court record that Ms Singh had visited the court complex on the aforementioned date as she was the one who identified the appellant before the Oath Commissioner.

12. Therefore, the reason articulated, both by Ms Singh and the appellant, that the application had been moved to avoid being afflicted by heat stroke seems tenuous to say the least.

13. What was even more troubling was that when the Family Court called upon Ms Singh to cross-examine the witness, her stand was that the court had to appoint a remote point coordinator to assist in the conduct of the proceedings.

14. In our opinion, the submission was untenable as a remote point coordinator is appointed when the witness is located in a place that is not sanitized, i.e., a place where the witness may be prompted, influenced or coerced.

14.1 Since the witness was present in Court, such eventuality would not have occurred.

15. Therefore, it is not as if an opportunity had not been granted by the court to cross-examine the witness through VC; an opportunity that the appellant and her counsel chose not to take, as noticed above. Thus, the reason given for not being present in the court for cross-examination seems contrived only to delay the proceeding. As noticed above, the witness [PW-1] has already been cross-examined for one and half hour pursuant to the



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direction issued by this Court.

16. We may also note that the instant appeal has been filed after a delay of thirty-seven (37) days.

17. We find no good reason to interfere with the impugned judgment and order.

18. The appeal is, accordingly, dismissed.

19. Consequently, pending applications shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 14, 2024/pmc

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