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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of decision: 27th September, 2024***

+ **CM(M) 3497/2024 & CM APPL. 56980-56981/2024**

KAJOL GUPTA

.....Petitioner

Through: **Mr. Bhagat Singh, Advocate**

versus

SARTHAK JAIN

.....Respondent

Through: **Mr. N.K. Bhambri and Mr. Karan Bhambri, Advocates**

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL. 56980/2024 & CM APPL. 56981/2024 (exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 3497/2024

1. Learned counsel for respondents appears on advance notice.
2. Petitioner herein i.e. Ms. Kajol Gupta is defending a petition seeking divorce filed by her husband. Her husband Mr. Sarthak Jain entered into witness box as PW1 and was earlier also cross-examined on few dates.
3. Eventually, when the matter was taken up on 29.05.2024, further cross-examination could not take place on the ground that mother of the conducting counsel Mr. Naveen Gupta was indisposed and has been taken to hospital. Advance intimation to that effect was also given to the opposite counsel.
4. However, learned Trial Court, keeping in view the various previous opportunities already given to the petitioner for concluding the cross-examination, declined any further accommodation and closed the



opportunity of the petitioner herein to further cross-examine PW1.

5. When an application seeking recall of the above-said order was filed, the same was also dismissed on 21.08.2024.

6. Such orders are under challenge.

7. Learned counsel for petitioner does admit that the petitioner should have made adequate alternative arrangements in advance but keeping in mind the nature of the case which is matrimonial in nature, it may seriously prejudice the case of petitioner if she is not permitted to conclude the cross.

8. During course of arguments, learned counsel for the respondent stated that he would have no objection if one last and final opportunity is granted in this regard to the petitioner.

9. Learned counsel for petitioner also states that if one opportunity is given, it would be ensured that such further cross-examination is concluded within 75 minutes maximum on any date to be given in this regard by the learned Trial Court.

10. The Court has gone through the various orders passed by the learned Trial Court from time to time and must appreciate and commend the manner in which the case is being fast-tracked by the learned Trial Court.

11. Though, there is no illegality or perversity in the order impugned before this Court, keeping in mind the overall facts and circumstances of the case and the concession given by learned counsel for the respondent, one more opportunity is being given.

12. It is also stated that the matter is already listed before the learned Trial Court on 05.10.2024 and if PW1 can make himself available for further cross-examination, he be cross-examined that day itself and such further cross-examination be concluded within 75 minutes as undertaken.



13. In view of the above and with the consent of both the sides, present petition is disposed of with the direction that learned Trial Court would give one opportunity to the petitioner herein to conclude the cross-examination of PW1 Mr. Sarthak Jain on 05.10.2024. If for any reason, the learned Trial Court wants to take up the said matter for said purpose on any other day, it would be at liberty to do so and it is expected that counsel for petitioner herein would appear on such day and would conclude the cross-examination of PW1 within the above timeframe.

14. Simultaneously, for causing delay in the matter, the petitioner is burdened with cost of Rs. 25,000/- which shall be cleared on the date fixed before the learned Trial Court.

15. The petition stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

SEPTEMBER 27, 2024/dr