

Court No. - 39

Case :- FIRST APPEAL No. - 279 of 2019

Appellant :- Kuldeep Umarao

Respondent :- Sadhana Umraon

Counsel for Appellant :- Adarsh Kumar, Bansh Narain Rai, Saurabh Kumar Pandey

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard Mr. Saurabh Kumar Pandey, learned counsel for the appellant and perused the record.

2. The present appeal has been filed under Section 19 of the Family Courts Act, 1984, arising out of the order dated 5th January, 2019 passed by the Additional District Judge/Fast Track Court, Kanpur Nagar on Misc. Case No. 51/74/2014 (Smt. Sadhana Umrao Vs. Kuldeep Umrao), giving rise to the Original Case i.e. Matrimonial Case No. 1560 of 2011 (Kuldeep Umrao vs. Smt. Sadhana Umrao) under Section 13 of the Hindu Marriage Act.

3. By that order, the court below has allowed the application filed by the respondent bearing application no.3-C under Order IX Rule 13 of the Code of Civil Procedure read with Section 151 of the Code of Civil Procedure and recalled its ex parte order dated 14th March, 2013 passed at the instance of the present appellant.

4. Notices were issued in the present appeal but those have remained unserved.

5. The learned counsel for the appellant submits that during pendency of this appeal the court below has proceeded with the original case. At present, evidence is complete and the case is ripe for hearing.

6. In such circumstances, it has been stated that the present appeal may be disposed of with a direction upon the court below to conclude the proceedings expeditiously.

7. That direction has been prayed, since according to the appellant, respondent is delaying the divorce proceedings and thereby burdening the appellant with financial liability under Section 24 of the Hindu Marriage Act.

8. Having considered the submissions advanced on behalf of the appellant, we find, no useful purpose would be served

keeping the present first appeal pending any further. Divorce proceeding under Section 13 of the Hindu Marriage Act is 12 years' old. That should have been concluded long ago.

9. Accordingly, if evidence is complete in divorce proceedings being Matrimonial Case No. 1560 of 2011 (Kuldeep Umrao vs. Smt. Sadhana Umrao) under Section 13 of the Hindu Marriage Act, we dispose of the present appeal with the observation, subject to the appellant filing a copy of this order before the learned court below, the divorce proceedings maybe taken up with utmost exigency to ensure a just conclusion preferably within three months from the date the compliance shown by the appellant, if there is no other legal impediment.

(Shiv Shanker Prasad, J.)

(Saumitra Dayal Singh, J.)

Order Date :- 3.11.2023

Sushil/-