

Court No. - 39

Case :- FIRST APPEAL No. - 1226 of 2023

Appellant :- Bhupendra Singh

Respondent :- Smt. Manisha Yadav

Counsel for Appellant :- Rajendra Prasad

Hon'ble Saumitra Dayal Singh,J.

Hon'ble Shiv Shanker Prasad,J.

1. Heard learned counsel for the appellant and perused the record.
2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984 arising from the order dated 01.4.2023 passed by the learned Principal Judge Family Court, Jhansi in Case No. 698 of 2023, whereby the learned court below has rejected the application filed by the appellant under Order IX Rule 9 CPC.
3. Prior to the above order, learned court below had passed a conditional order dated 08.2.2023 under Order IX Rule 9 CPC in Misc. Case No. 4 of 2021 (Bhupendra Singh Vs. Smt. Manisha) providing for recall of the order dated 31.8.2021 subject to payment of RS. 1000/- cost. Cost not paid, the impugned order has been passed by the learned court below.
4. Having heard learned counsel for the appellant having perused the record, while there is not technical defect in the order dated 01.4.2023, at the same time, in the interest of justice, we observe that the learned court below may have allowed for one last opportunity subject to payment of higher/further cost.
5. Accordingly, the appeal is **disposed of** on the following terms:-
 - (i) Subject to payment of cost Rs. 5000/- by the appellant to the

respondent, through Court by 20.11.2023, the order dated 01.4.2023 shall stand recalled.

(ii) Further, subject to payment of Rs. 1000/- cost provided to the respondent by the appellant, through Court within the same time, the order dated 08.2.2023 may be treated to have been complied with.

6. In the event of non compliance of this order, no further action is required to be taken by the learned court below.

Order Date :- 8.11.2023

Faraz

(Shiv Shanker Prasad, J.) (S. D. Singh, J.)