

Court No. - 39

Case :- FIRST APPEAL DEFECTIVE No. - 456 of 2023

Appellant :- Smt. Megha @ Madhu

Respondent :- Vibhor Sharma

Counsel for Appellant :- Akhilesh Kumar Singh, Shivendra Nath Singh

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Shiv Shanker Prasad, J.

1. Heard learned counsel for the appellant.
2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984 arising from the ex parte decree of divorce dated 03.3.2023 granted by the Additional Principal Judge Family Court, -I Ghaziabad in Case No.275 of 2020 (Vibhor Sharma Vs. Smt. Megha @ Madhu) instituted under Section 13 of the Hindu Marriage Act, 1955.
3. Present appeal has been presented with a delay of 183 days.
4. As to the delay, explanation has been furnished that the appellant was not aware of the proceedings or the order passed by the learned court below. At the same time, upon query made, it has been revealed that the appellant has yet not made any application under Order IX Rule 13 CPC, seeking recall of that ex parte decree.
5. In view of the facts noted above, it is considered desirable that the appellant may first seek remedy under Order IX Rule 13 before the learned court below.
6. At this stage, learned counsel for the appellant states that the appellant may be permitted to withdraw the present appeal at this

stage with liberty to apply under Order IX Rule 13 before the learned court below and with further liberty to file fresh appeal, if cause survives.

7. Accordingly, the appeal is dismissed as withdrawn with liberties as prayed.

Order Date :- 8.12.2023

Faraz

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