

In the High Court of Punjab and Haryana at Chandigarh

CR No.1459 of 2015
Date of decision: 02.03.2015

Arun Mahajan

.....Petitioner

Versus

Vidhi Mahajan @ Ria Mahajan

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.Rahul Vats,Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging order dated 16.1.2015 (Annexure P1) whereby the application moved by the petitioner for dismissal of the application moved by the respondent under Order 9 Rule 13 of the Code of Civil Procedure, 1908('CPC' for short) for setting aside the ex-parte decree dated 30.3.2011 (Annexure P8), was dismissed.

I have heard the learned counsel for the petitioner and have gone through the record available on the file carefully.

Petitioner had filed petition under Section 13 of the Hindu Marriage Act, 1955 seeking a decree of divorce. The said petition was allowed and the ex-parte decree of divorce was granted in favour of the petitioner on 30.3.2011. Thereafter, the respondent moved an application under Order 9 Rule 13 CPC for setting aside the ex-parte decree dated 30.3.2011. The said application is

pending. After the framing of the issues, now, the case is listed for evidence of the respondent. During the pendency of the said application, petitioner moved an application dated 12.11.2014 (Annexure P4) praying that the application moved by the respondent under Order 9 Rule 13 CPC be dismissed.

The trial Court has dismissed the said application vide impugned order dated 16.1.2015 on the ground that the issues had been framed in the application moved by the respondent under Order 9 Rule 13 CPC. Parties are yet to lead their evidence. Application under Order 9 Rule 13 CPC could not be dismissed merely on the ground that the petitioner had got remarried.

The application moved by the respondent under Order 9 Rule 13 CPC is liable to be decided on merits. Moreover, issues have been framed by the trial Court and now, the case is listed before the trial Court for recording of the evidence of the respondent in the application moved by her under Order 9 Rule 13 CPC. The reasons given by the trial Court, while ordering the dismissal of the application moved by the petitioner, are sound reasons and call for no interference by this Court.

Dismissed.

**(SABINA)
JUDGE**

March 02, 2014
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