

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Revision No. 2657 of 2015 (O&M)
Date of decision: 12.5.2015

Hardeep Singh

.. Petitioner

v.

Baljit Kaur

.. Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Amit Dhawan, Advocate for the petitioner.

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Rajesh Bindal J.

The husband is before this court impugning the order dated 7.1.2015, passed by the court below, whereby the application filed by the respondent-wife for setting aside ex-parte judgment and decree, was allowed.

Learned counsel for the petitioner submitted that divorce petition was filed by the petitioner on 12.8.2009, in which the respondent was duly served and was represented through a counsel. On 30.11.2011, none appeared for the respondent. She was proceeded against ex-parte. Thereafter, ex-parte decree was passed on 14.3.2012. The application for setting aside the same was filed on 12.6.2012 without any application seeking condonation of delay. No reason was assigned for non-appearance of the respondent or her counsel on the date fixed. Even the ground taken in the application for setting aside ex-parte decree was not tenable, as no evidence was led to substantiate the plea raised.

After hearing learned counsel for the petitioner, I do not find any reason to interfere with the impugned order. The stand taken by the respondent in the application filed was that she is resident of a village in

Tehsil Batala, whereas the case was pending at Jalandhar, which is at a distance of 75 kilometers. Initially, she had been attending the court on all the dates of hearing, however, on the asking of counsel that she would be informed whenever her presence would be required, she did not attend the court. She came to know about the passing of ex-parte decree only on 11.6.2012, when she came to the court to enquire about her case. Immediately thereafter, the application was filed. Another important aspect is that in the case in hand, minor son of the parties, aged 13 years, has levelled serious allegations against the respondent regarding her character. He could not be cross-examined, as the respondent was ex-parte. The respondent deserves to be granted an opportunity to cross-examine him. In matrimonial proceedings, the courts are required to take a balanced view appreciating the facts and circumstances of the case which, in my opinion, has been rightly appreciated by the court below while setting aside the ex-parte judgment and decree. There is no error in the impugned order.

Accordingly, the petition is dismissed.

(Rajesh Bindal)
Judge

12.5.2015
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