

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CR 4317 of 2015

Date of Decision: July 10, 2015

Shamsher Singh

.....Petitioner

Vs.

Sakina Rani

.....Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI.

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Present:- Mr.Nitesh Singhi, Advocate for the petitioner.

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M.M.S. BEDI, J. (ORAL)

This is husband's revision petition against the order annexure P-10 dated January 7, 2015 allowing an application under Order 9 Rule 13 CPC setting aside the ex-parte judgment and decree dated November 18, 2014 granting a decree of dissolution of marriage under Section 13 of the Hindu Marriage Act.

Counsel for the petitioner has vehemently contended that the respondent wife had been served and had knowledge about the pendency of divorce petition against her. She had, instead of contesting the petition, moved an application for transfer of the same by filing Transfer Petition No.553 of 2014 before the High Court-titled Sakina Rani Vs. Shamsher

Singh. The said petition is stated to be pending before the High Court for October 2015. Counsel has placed reliance on a statement made by the respondent wife before Women Cell on November 4, 2014 annexure P-5, wherein she had stated that her husband had filed a divorce petition in Ludhiana and the date of hearing in that case was October 4, 2014.

I have seen the statement annexure P-5 which bears a cutting on the actual date of hearing mentioned in the alleged statement. The ex-parte decree of divorce obtained by the petitioner against his wife while she had been making an attempt to get the same transferred from Ludhiana to Amritsar, appears to be a harsh step. The rule of natural justice requires that before the matrimonial status of a wife is finally determined, she should be given a fair opportunity to contest the grounds of divorce raised by her husband and the husband should be able to get a divorce only after establishing the grounds taken up by him. It is a debatable issue at this stage whether the respondent had actually been served in accordance with law for the date fixed before the matrimonial Court.

In the interest of justice and equity and fair play, I deem it appropriate that the matrimonial dispute between the parties should be adjudicated on merits after a fair contest. No ground is made out for interference in the impugned order setting aside the ex-parte decree of divorce obtained by the husband - petitioner.

Dismissed.

July 10, 2015
sanjay

(M.M.S.BEDI)
JUDGE