

In the High Court of Punjab and Haryana at Chandigarh

CR No.6182 of 2014 (O&M)
Date of decision: 06.07.2015

Jasjit Singh Jaggi

.....Petitioner

Versus

Navdeep Kaur

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr.D.V.Sharma, Senior Advocate with
Ms. Shivani Sharma, Advocate
for the petitioner.

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SABINA, J

Petitioner has filed this petition challenging the order dated 17.5.2014 whereby ex-parte judgment and decree dated 27.7.2010, were set aside.

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

Petitioner had filed the petition under Section 13 of the Hindu Marriage Act, 1955 seeking a decree of divorce. The said petition was allowed in ex-parte vide judgment and decree dated 27.7.2010. Respondent moved an application for setting aside the said judgment and decree. Vide impugned order dated 17.5.2014, application moved by the respondent was allowed. Hence, the present petition.

The question that requires consideration in the present

case is as to whether respondent had received the summons in the divorce petition filed by the petitioner.

Petitioner got married to the respondent-Navdeep Kaur on 16.8.1990. Parties were blessed with two children out of the said wedlock. After the birth of their first child, respondent started residing with the petitioner in America along with their minor child. Parties started residing separately in June, 2006. Petitioner came to India in September, 2006 but respondent refused to talk to him on telephone. Petitioner visited America on two occasions and he tried his best to persuade respondent to join his company but she failed to do so.

The case of the respondent was that she had not received any summons from the trial Court qua the filing of the divorce petition against her by the petitioner. The case of the respondent further was that her address was not correctly disclosed by the petitioner in the divorce petition.

The case of the petitioner, on the other hand, is that despite service, respondent had failed to put in appearance before the trial Court. After the expiry of period of limitation, from the date of the grant of the ex-parte judgment and decree, he had performed marriage with Gagneet Kaur.

Since the respondent did not put in her appearance before the trial Court despite publication in the newspaper 'The Tribune', she was proceeded ex-parte vide order dated 10.5.2010.

The case of the respondent was that she came to know from social net working website face book that the petitioner had got remarried. On inquiry, it transpired that the petitioner had got an ex-

parte decree of divorce against her. Since the respondent was residing in America, she did not come to know about the publication of summons qua her in the newspaper 'The Tribune' published in Chandigarh. In support of her case, respondent had led her evidence. Respondent was issued notices by way of registered post. The same were not received back served or otherwise. Thereafter, the respondent was served by way of publication. The plea taken by the respondent that she was not aware of the publication of summons in the newspaper 'The Tribune' inspire confidence. Respondent, who was residing in America, could not have come to know about the publication of summons qua her in the newspaper 'The Tribune'. In these circumstances, learned trial Court rightly allowed the application moved by the respondent for setting aside the ex-parte judgment and decree dated 27.7.2010.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

July 06,2015

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