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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CRR(F)-169-2013 (O&M)
Date of decision: 02.11.2015**

Monika Razda

... Petitioner

Vs.

Kiran Rana

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. K.S. Jetley, Advocate
for the petitioner.

Mr. Amit Jaiswal, Advocate
for the respondent.

RAMESHWAR SINGH MALIK, J. (ORAL)

CRM-36206-2015

Applicant seeks permission to place on record the copy of
Annexure P-6.

Application is allowed, as prayed for. Document is permitted to
be placed on record.

CRM stands disposed of.

CRR(F)-169-2013

It is undisputed between the parties that impugned order dated
17.07.2013 passed by the learned District Judge, Family Court, Ambala was
an ex-parte order. It is also not in dispute that the respondent-husband
wrongly moved an application under Order 9 Rule 13 of the Code of Civil
Procedure and said application of the respondent-husband has been
dismissed with liberty to him to move fresh application, in accordance with
law. Thereafter, respondent has already moved an application for setting

aside the ex-parte proceedings, wherein notice has been issued to the petitioner and now the matter is listed before the learned trial Court for 15.01.2016.

In view of the above, learned counsel for the respondent-husband has been found justified in contending that in case the instant petition is decided on merits, at this stage, it will cause a serious prejudice to the respondent and his application for setting aside the ex-parte proceedings which is pending consideration before the learned trial Court, would be rendered infructuous.

So far as the amount of maintenance already granted to the petitioner vide impugned order dated 17.07.2013 is concerned, learned counsel for the respondent submits that he has got the clear instructions to say that earlier execution filed by the petitioner was disposed of, as having been satisfied vide order dated 04.08.2015. However, her later execution application is pending consideration before the learned executing Court for 26.11.2015. He further fairly states that let the petitioner-wife furnish her bank account number before the learned executing Court on the date already fixed i.e. 26.11.2015 and the respondent-husband undertakes to deposit the entire amount towards arrears of maintenance till November 2015, in her said bank account within a period of three weeks from the date, she would furnish her bank account number before the learned executing Court. It is further undertaken on behalf of the respondent-husband that he will keep on depositing the amount of maintenance in the bank account of the petitioner-wife on or before 10th day of each month so that petitioner-wife may not have to file repeated execution applications.

Faced with the above, learned counsel for the petitioner also fairly states that this would satisfy the petitioner. He would next contend that petitioner may be granted permission to withdraw the present petition with liberty to her to file fresh one, after appropriate order is passed by the learned trial Court on the application moved by the respondent-husband, seeking setting aside of the ex-parte proceedings.

In view of the abovesaid respective statements made by learned counsel for the parties, permission is granted to the petitioner to withdraw the present petition with liberty, as prayed for. It is also clarified that petitioner shall be entitled to challenge the order passed by the learned trial Court on the application moved by the respondent-husband, seeking setting aside the ex-parte order, including to lay challenge to the present impugned order dated 17.07.2013.

With the abovesaid observations made and directions issued, present petition stands disposed of.

[RAMESHWAR SINGH MALIK]
JUDGE

02.11.2015
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