

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

**FAO No. M-362 of 2013 (O&M)
DATE OF DECISION :- July 15, 2015**

Jagjit Kaur

...Appellant.

Versus

Paramjit Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE M.JEYAPPAUL

HON'BLE MR. JUSTICE DARSHAN SINGH

Present:- Mr. C.L. Verma, Advocate for the appellant.

Mr. Vikram Anand, Advocate for the respondent.

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the digest? Yes/No

M.JEYAPPAUL, J.

C.M. No. 7627-CII of 2015

1. This is an application filed by appellant-wife praying for a direction to respondent-husband to pay the arrears of maintenance ordered pendente lite in the petition under Sections 24 and 26 of the Hindu Marriage Act, 1955 and also to strike off the defence in the appeal set up by respondent-husband in case of non-compliance of the above order passed on 4.12.2014.

2. Counsel for appellant-wife would submit that the above

order passed by this Court was never complied with by respondent-husband in spite of sufficient opportunities given to him.

3. Per contra, learned counsel appearing for respondent-husband would submit that the respondent is not in a position to pay the maintenance as ordered by this Court on 4.12.2014.

4. Taking cognizance of the application filed by the appellant, we directed the respondent-husband to pay a sum of Rs.6000/- per month to appellant-wife and her daughters from 7.4.2014 i.e. the date from which the application under Section 24 of the Hindu Marriage Act, 1955 was filed. We also gave two more opportunities thereafter for the respondent-husband to comply with the directions of this Court passed on 7.4.2014.

5. It is an admitted position that respondent-husband never complied with the directions of this Court to pay maintenance and also the litigation expenses. Under such circumstances, we have no other option except striking off the defence set up by respondent-husband in the appeal.

6. Accordingly, the application is allowed and the defence of respondent-husband in the appeal is struck off.

FAO No. M-362 of 2013

1. Jagjit Kaur, the wife of respondent-husband, aggrieved by the dismissal of her petition under Section 13 of the Hindu Marriage Act has preferred the present appeal.

2. Of course, the trial Court chose to dismiss the petition filed by the appellant as the grounds of cruelty and desertion could not be

established.

3. The learned counsel appearing for the appellant would submit that the non payment of maintenance and the litigation expenses has resulted in starvation of the appellant and her three daughters.

4. We have passed a detailed order in C.M. No. 7627-CII of 2015 holding that the respondent-husband cannot maintain his defence in the appeal as he has not chosen to comply with our direction to pay the maintenance as well as litigation expenses. In fact, the defence of respondent-husband has been struck off.

5. As rightly pointed out by counsel for the appellant, non payment of maintenance to the appellant and her three daughters by respondent-husband has resulted in forced starvation. Starvation forced upon by the respondent amounts to cruelty. Hence, the appellant is entitled to a decree of divorce.

6. Therefore, setting aside the judgment and decree passed by the trial Court, a decree of divorce is granted to the appellant. Consequently, the appeal is allowed. Decree sheet be prepared accordingly.

**(M. JEYAPPAUL)
JUDGE**

**(DARSHAN SINGH)
JUDGE**

July 15, 2015
p.singh