

Ramesh Rani versus Lal Chand

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

**FAO-M No. 74 of 2014 (O&M)
Date of decision: 10.09.2015.**

Ramesh RaniAppellant.

Versus

Lal ChandRespondent.

**CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MS. JUSTICE NAVITA SINGH**

Present: Mr. Dheeraj Kumar Narula, Advocate, for the appellant
with appellant – Ramesh Rani in person.

Ms. Sharmila Sharma, Advocate, for the respondent
with respondent – Lal Chand in person.

RAJIVE BHALLA, J. (ORAL)

The appellant – Ramesh Rani has filed this appeal challenging judgment and decree dated 25.09.2013 passed by the Additional District Judge, Sirsa, dismissing her petition for grant of a decree of divorce.

2. Counsel for the appellant states that a perusal of the evidence reveals that the allegation of desertion has been duly proved. The trial Court should have, therefore, dissolved the marriage. Counsel for the appellant states that he has instructions to state that the appellant shall not claim maintenance/permanent alimony, nor custody/guardianship of the children if the respondent admits the allegation of desertion.

3. Lal Chand son of Kanhaiya Lal, resident of village Darbi, Tehsil and District Sirsa, the respondent is present in person and has been

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duly identified by his counsel. Lal Chand has filed an affidavit dated 10.09.2015. A relevant extract from the affidavit reads as follows:

- “2. That deponent accepts plea of desertion raised by appellant/wife is her petition for divorce and ready to part his ways.***
- 3. That deponent has brought up four children born out of marriage singlehandedly. He submits that appellant will not claim any right regarding custody of children.***
- 4. The deponent will not be liable to pay any permanent alimony maintenance present. Past or further appellant will not claim any right in movable or immovable property of the deponent.***
- 5. The dependent has no objection if appeal filed by appellant/wife is accepted by this Hon'ble Court.”***

4. Counsel for the appellant submits that as the respondent – Lal Chand has admitted the allegation of desertion, which is even otherwise proved, the appeal may be allowed, judgment and decree dated 25.09.2013 may be set aside and petition filed by the appellant under Section 13 of the Hindu Marriage Act, 1955 (hereinafter referred to as the Act), may be decreed by dissolving the marriage between the parties on the ground of desertion.

5. Counsel for the respondent states that the respondent has accepted the plea of desertion after due consideration of the entire matter,

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without any undue influence or coercion and he has no objection to the dissolution of the marriage between the parties.

6. We have heard counsel for the parties, considered the statement made by counsel for the appellant, contents of the affidavit filed by Lal Chand son of Kanhaiya Lal, the respondent.

7. The appellant filed a petition under Section 13 of the Act for dissolution of her marriage with the respondent on the ground of cruelty and desertion. The respondent denied the allegations and, in fact, asserted that the appellant has eloped with one Ashok Kumar. The trial Court, after framing issues, called upon the parties to lead evidence and after considering the pleadings and the evidence adduced, dismissed the petition by holding that the appellant has not been able to prove her allegations of cruelty or desertion.

8. During pendency of the present appeal, counsel for the appellant made a statement that though desertion is proved, if the respondent admits the plea of desertion, she shall not claim any maintenance/permanent alimony, nor she shall claim custody or guardianship of the minor children. Lal Chand son of Kanhaiya Lal, the respondent has filed an affidavit admitting the plea of desertion.

9. We have considered the aforesaid facts and as there is no legal impediment to the acceptance of the admission voluntarily made by the respondent in relation to the plea of desertion, hold that the respondent has deserted the appellant. The appeal is allowed, the impugned judgment and

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decree is set aside and the marriage between the parties is dissolved by grant of a decree of divorce on the ground that the respondent has deserted the appellant. However, in accordance with her statement, the appellant shall not be entitled to any maintenance, past, present or future or permanent alimony, nor she shall be entitled to claim custody or guardianship of the minor children of the parties. Decree-sheet be prepared accordingly.

(RAJIVE BHALLA)
JUDGE

(NAVITA SINGH)
JUDGE

10.09.2015
Ramesh