

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

**FAO No.M-281 of 2015
Date of decision: 07.07.2015.**

Ramola Mander

.....Appellant

versus

Charanjit Singh Mander

.... Respondent

**CORAM : HON'BLE MR. JUSTICE M. JEYAPPAUL
HON'BLE MS. JUSTICE RAJ RAHUL GARG**

Present: Mr. Shakti Paul Sharma, Advocate for the appellant.

M. JEYAPPAUL, J.

Mr. Arjanbir Singh, Advocate took notice and filed vakalatnama on behalf of respondent.

Aggrieved by the dismissal of the joint petition filed by the appellant and the respondent under Section 13-B of the Hindu Marriage Act, 1955 on the ground that the appellant failed to make himself present for recording the statement during second motion on the ground of illness, the present appeal has been preferred.

Heard the submissions made on either side.

Both the parties have jointly filed a petition under Section 13-B of the Hindu Marriage Act before the trial Court on 04.08.2014. During the course of first motion, the statement of both the parties were recorded by the trial Court. When the matter came up on 04.04.2015, the appellant herein did not appear to make statement and as a result of which the petition was dismissed.

The trial Court has made an observation that the appellant was not interested to get a decree of divorce by mutual consent on account of her non-appearance.

Counsel appearing on either side would convincingly submit that in fact the appellant herein was unwell and necessary documents were also produced to support the plea that she was unwell. But the trial Court chose to dismiss the plea for adjournment and consequently, dismissed the petition under Section 13-B of the Hindu Marriage Act, 1955.

We are convinced with the reasons assigned by the appellant herein for her absence before the trial Court during the course of second motion. In our considered view, the trial Court should have afforded one more opportunity to the appellant to appear for second motion before dismissing the said petition, as the same has been moved jointly by both the parties under Section 13-B of the Act.

In view of the above facts and circumstances, the impugned judgment stands set aside and the matter is remanded to the trial Court to pass judgment after affording sufficient opportunities to both the parties to make statement during second motion in accordance with law.

Appeal is disposed of accordingly.

Both the parties shall appear before the trial Court on 20.07.2015.

(M. JEYAPPAUL)
JUDGE

(RAJ RAHUL GARG)
JUDGE

07.07.2015
Manoj Bhutani