

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Review Application No. 77-CII of 2012 (O&M) in
FAO No. 152-M of 2007
Date of decision: 24.8.2015

Roshan Lal Mittal

**.. Non-applicant/
appellant**

v.

Smt. Neelam

**.. Applicant/
respondent.**

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Ms. Bindu Goel, Advocate for the applicant-respondent.

Mr. Vijay Sharma, Advocate for the non-applicant/appellant.

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Rajesh Bindal J.

Review of the order dated 1.4.2010 has been sought by the applicant-respondent on the ground that divorce was granted to the non-applicant/appellant with the understanding that he will marry with younger sister of his wife so that kids born out of the wedlock are taken care of. This was the part of the compromise. As the same has not been complied with, the order granting divorce deserves to be re-called. The consent of the wife was taken by way of fraud. In fact, the lives of both the sisters have been ruined. Even the younger sister of the applicant did not marry, as the non-applicant was to marry with her. Future of the children born out of the wedlock has not been considered at all, who have been left with the applicant-respondent. She is not having any source of income.

Justifying delay in filing the review application, it was argued that earlier the non-applicant/appellant had been promising to marry with younger sister of the applicant, however, when he got married with another

woman and even had a child, having come to know about this fact, the review application was filed.

On the other hand, learned counsel for the non-applicant submitted that earlier a compromise was arrived at between the parties, which was not acceptable, hence, a fresh compromise was written, in which there was no condition of marrying the younger sister of the wife. In any case, the applicant had earlier filed RA No. 104-CII of 2010, which was dismissed on 9.9.2010. Second review application is not maintainable. In fact, father and brother of the wife are practising advocates at Samana. The review application has been filed merely to extract more money. The issue regarding marriage was not even referred to when the earlier review application was filed. ₹ 15,00,000/- settled between the parties were paid at the time of disposal of the earlier review application.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, the husband had filed appeal before this court against the judgment of the trial court dismissing the divorce petition. During pendency of the appeal before this court, the matter in dispute was compromised and in terms thereof, the divorce petition was converted into a petition for divorce by mutual consent and a decree of divorce was passed by this court on 1.4.2010. After the aforesaid order was passed, review application was filed claiming that the cheque earlier issued by the non-applicant for ₹ 15,00,000/- had dishonoured. As the amount had not been paid, the order passed by this court was sought to be reviewed. As during pendency of the review application, the non-applicant paid ₹ 15,00,000/- by way of demand draft and FDRs in the name of the children, the same was disposed of on 9.9.2010. At that stage, the applicant never raised the issue regarding marriage of his younger sister with the non-applicant. The present review application has been filed along with an application seeking condonation of delay of 738 days in filing the same. The plea sought to be raised is that when despite repeated requests, the non-applicant refused to marry with younger sister of the applicant, the present review application was filed. However, the fact remains that the non-applicant had re-married

on 24.5.2011 and even a child was also born out of the wedlock on 14.2.2012 and the present application was filed thereafter on 9.5.2012. There was no good reason for waiting so long. In case, according to the applicant, there was any settlement regarding marriage, the issue should have been raised immediately after the appeal was disposed of on 1.4.2010 and not after a period of about two years. When ₹ 15,00,000/- were paid by the non-applicant in this court during the pendency of the earlier review application, the applicant was satisfied. The fact that brother and father of the applicant are practising advocates at Samana is not in dispute.

Considering the aforesaid factual matrix, I do not find any reason either to condone the delay in filing the review application or entertain the review application. Accordingly, the same are dismissed. Consequently, the other accompanying applications are also dismissed.

(Rajesh Bindal)
Judge

24.8.2015
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