

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

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Crl. Rev. No. 4659 of 2016 (O&M)

Date of Decision:15.12.2016

Sumitra

...Petitioner

Vs.

Rajender & Ors.

..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. C.M.Munjhal, Advocate, for the petitioner.

Ritu Bahri, J. (Oral)

The petitioner has come up in the revision against the order dated 21.11.2016, whereby Additional Sessions Judge, Sirsa, set aside the order dated 06.05.2015 passed by Judicial Magistrate, Ist Class, Sirsa, whereby right of share accomodation was given to the applicant-respondent.

The petitioner in paragraph 4(b)(i) of her complaint/application had disclosed that petition under Section 13 of the Hindu Marriage Act was also pending in the Court of Additional District Judge, Gharsana, Rajasthan, which was filed by her husband and after the ex-parte decree was granted, she has filed an application for setting aside the said ex-parte decree. This aspect has been considered in **Hema Rawal Vs. Prashant Sharma**, 2015 (2) RCR (Crl.) 195, wherein in the similar circumstances a decree of divorce granted to the parties without knowledge of the wife. It was observed that unless and until the decree is set aside and even appeal is pending, it is a right of the wife to share house in husband's residence.

In view of the above, this petition is disposed of In case ex-parte decree of divorce is set aside, the petitioner will have the liberty to make fresh application.

December 15, 2016
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(RITU BAHRI)
JUDGE