

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

FAO-M-277-2009

Decided on : 17.02.2016

Suresh Garg

.... Appellant

VERSUS

Sushila

..... Respondent

CORAM: **HON'BLE MR. JUSTICE RAJIVE BHALLA**
HON'BLE MS. JUSTICE LISA GILL

Present: **Mr.Arun Singal, Advocate, for the appellant.**

Mr.Parminder Singh-I, Advocate, for the respondent.

RAJIVE BHALLA, J. (ORAL)

By way of this order, we shall dispose of FAO-M-277-2009 and FAO-M-357-2009, filed by the appellant-husband, challenging a common judgment and decree, dismissing the petition for dissolution of marriage, filed by him and allowing the petition for restitution of conjugal rights, filed by the respondent-wife.

The appeals were taken upon together and vide order dated 30.07.2013 (passed in FAO-M-357-2009), the appellant was directed to pay maintenance @ Rs.5,000/- per month, from the date of filing of the application and in addition Rs.250/- per month, being paid under Section 125 of the Cr.P.C.

The appeals came up for hearing on 23.12.2015 when counsel for the respondent pointed out that the appellant has not paid any amount towards maintenance. The matter further came up for

consideration on 14.01.2016, when the following order was passed: -

“Counsel for the parties are not present. The appellant has not placed any evidence on record to prove payment of arrears of maintenance. A last opportunity is granted to do the needful failing which the appeal may be dismissed for failure to pay the maintenance.”

Counsel for the appellant submits that the appellant has not contacted him and, therefore, he is not in a position to state whether the appellant has or has not paid arrears of maintenance.

Counsel for the respondent emphatically asserts that no amount has been paid towards maintenance.

We have heard counsel for the parties and taking into consideration the fact that arrears of maintenance, assessed vide order dated 30.07.2013 have not been paid, dismiss the appeals for non-payment of maintenance with liberty to seek revival in case arrears of maintenance are paid within two months from today.

The respondent-wife shall be entitled to recover arrears of maintenance by filing a petition under Section 28A of the Hindu Marriage Act, 1955.

[RAJIVE BHALLA]
JUDGE

17.02.2016
shamsher

[LISA GILL]
JUDGE