

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR No.1316 of 2017
Date of decision: 22.02.2017

Jaswinder Singh Attri

... Petitioner

Vs.

Jasdeep Attri

... Respondent

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. Mayank Mathur, Advocate
for the petitioner.

RAMESHWAR SINGH MALIK, J. (ORAL)

Feeling aggrieved against the impugned order dated 04.01.2017 (Annexure P-1) passed by the learned Additional District Judge, allowing the application of the respondent-wife under Order 9 Rule 13 read with Section 151 of the Code of Civil Procedure ('CPC' for short), setting aside the ex-parte judgment and decree dated 14.10.2013, whereby the petitioner was granted ex-parte divorce against his wife, petitioner-husband has approached this Court by way of instant revision petition under Article 227 of the Constitution of India, for setting aside the impugned order.

Heard learned counsel for the petitioner.

Reading of the impugned order would show that the respondent-wife has explained to the satisfaction of the Court that her non-appearance was

not intentional. Earlier, she engaged Sh. S.S. Taggar, Advocate who had been conducting the case on her behalf. During pendency of the divorce petition, Sh. S.S. Taggar, Advocate unfortunately passed away. Thereafter, the respondent-wife engaged Sh. Gurmail Singh, Advocate who kept on appearing on behalf of the respondent-wife for quite some time, but he stopped appearing on behalf of the respondent-wife. Having been left with no other option, she had to engage another counsel namely Sh. Iqbal Singh, Advocate who could not put appearance on behalf of the respondent-wife because of registration of FIR Ex.A1 against him. Under these circumstances, respondent-wife was proceeded against ex-parte on 07.10.2013 and the case was adjourned to 14.10.2013 for ex-parte evidence of the husband. It seems that on 14.10.2013, petitioner-husband produced his entire evidence and concluded the same on that very day. The learned trial Court passed the ex-parte decree on 14.10.2013 itself.

When in the month of December 2013, petitioner-husband started commenting on the respondent-wife that she was no longer his wife, she got suspicious and enquired about the court proceedings. Without wasting any further time, application under Order 9 Rule 13 read with Section 151 CPC was filed by respondent-wife on 11.12.2013, which has been rightly held within limitation by the learned Additional District Judge, while passing the impugned order. Having said that, this Court feels no hesitation to conclude that the learned Additional District Judge was well within jurisdiction to pass the impugned order and the same deserves to be upheld, for this reason also.

It is the settled proposition of law that rules of procedure are meant for advancing the cause of justice. Further, every Court must make an

endeavour to decide the lis between the parties on merits, instead of technicalities, with a view to do complete and substantial justice. No party should be forced to go home with the grievance that it was not granted reasonable opportunity to put up its case before the Court. It is also true that every party to the litigation must be granted reasonable opportunity to put up its best case before the Court, so as to enable the Court to adjudicate the dispute effectively and it shall also avoid multiplicity of litigation between the parties.

Keeping in view the peculiar facts of the present case, noticed hereinabove, there is no room for doubt that neither there was any inordinate delay on the part of the respondent-wife in moving the application seeking setting aside the ex-parte order as well as judgment and decree passed against her nor her absence was either malafide or intentional. In fact, after having been proceeded against ex-parte vide order dated 07.10.2013, ex-parte decree came to be passed by the learned Court below on the very next date of hearing i.e. 14.10.2013. Instead of rendering the hasty decision, learned Court below ought to have granted at least another opportunity to the respondent-wife, particularly when she had to engage three counsels. Only that is what she could have done. Under these circumstances, the respondent-wife cannot be said to be either negligent or at fault by any stretch of imagination. Before passing the impugned order, learned Additional District Judge appreciated the true facts of the case, in the correct perspective, causing no prejudice to the petitioner and the impugned order deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted

above, coupled with the reasons aforementioned, this Court is of the considered view that the present revision petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present revision petition stands dismissed, however, with no order as to costs.

22.02.2017
vishnu

[RAMESHWAR SINGH MALIK]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No