

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

134

CR-4151-2017.

Decided on: July 13, 2017.

Mahesh Kumar

.. Petitioner(s)

VERSUS

Smt.Sarita

.. Respondent(s)

* * *

CORAM: HON'BLE MR.JUSTICE M.M.S.BEDI

* * *

**PRESENT Mr.Johan Kumar, Advocate,
for the petitioner.**

M.M.S. BEDI, J. (ORAL)

Vide impugned order, an application filed by the respondent-wife has been allowed setting aside the ex parte order dated 5.9.2014 and the consequent ex parte judgment and decree dated 1.10.2014 passed against the respondent-wife.

Counsel for the petitioner has vehemently contended that the petitioner has been able to establish before the trial Court that the respondent had intentionally evaded to appear before the matrimonial Court despite having been served vide notice Annexure P1. He has submitted that the certified copy of the divorce decree was sent to the respondent's father and that the respondent despite having knowledge about the ex parte decree had opted not to appear before the Court within time to seek its setting aside. Counsel for the petitioner has also argued that the petitioner had earlier married to the sister of the respondent but unfortunately she died in the year 2009, as such, the petitioner married the respondent in the year 2010. The respondent from the very beginning had no intention to look after the children of her sister who was earlier married to the petitioner.

I have heard the learned counsel for the petitioner and carefully gone through the facts and circumstances of the case. When an application for divorce is decided, it determines the status of the husband and wife for all times to come. The rules of natural justice require that before finally determining the matrimonial status of a party in matrimonial litigation, a fair opportunity should be given to both the spouses in order to substantiate the pleas taken up in the petition.

In the present case, the petitioner had claimed divorce on certain grounds of default on the part of the respondent which are required to be controverted by the respondent and by setting aside the ex parte decree of divorce, the respondent will be able to get a fair opportunity to defend the divorce petition.

In view of above observations, I am of the considered opinion that no illegality has been committed by the matrimonial Court in permitting the respondent a fair opportunity to appear and contest the petition by setting aside the ex parte judgment and decree of divorce.

The petition is dismissed.

(M.M.S. BEDI)
JUDGE

July 13, 2017.
rka

Whether speaking / reasoned
Whether reportable:

Yes / No
Yes / No