

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

(121)

CR-8169-2016

Decided on: July 14, 2017.

Randhir

.... Petitioner

Versus

Mamta @ Neetu Kumari

..... Respondent

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

Present: Ms. Deepa Jain, Advocate, for the petitioner.

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

The petitioner had obtained an exparte decree of divorce on 09.07.2012. The respondent wife had filed an application under Order 9 Rule 13 CPC for setting aside the exparte order dated 24.03.2012 against the petitioner besides challenging the exparte judgment and decree dated 09.07.2012. Application of the respondent-wife has been allowed vide impugned order dated 16.11.2016 on the ground that the respondent-wife had not been served in the divorce petition.

Learned counsel for the petitioner has vehemently contended that the respondent-wife had been served in accordance with the procedure of law at her residential address at Patna through the legal process i.e. through Family Court, Patna. She has placed strong reliance on the affidavit of the Process Server and the entries made by the Process Server in the relevant register indicating that the respondent had been served at correct address.

Learned counsel for the petitioner has urged that the Family Court, Faridabad has acted illegally in setting aside the judgment and decree dated 09.07.2012 granting divorce to the petitioner, exparte.

I have heard learned counsel for the petitioner at length and carefully gone through the documents which have been appended with the petition and referred to by the counsel for the petitioner.

Even if, it is presumed that the respondent had been served as claimed by the petitioner, this Court is of the opinion that in the matrimonial matters, the consequences of judgment passed by the Court, have got a far reaching effect as the matrimonial status of a party is altered by a decree of divorce. Every spouse is entitled to reasonable opportunity before the marital status is determined by a decree.

In the present case, learned Family Court has, on appreciation of the entire evidence produced by the wife, arrived at a conclusion that the petitioner had given wrong address of the respondent and had not been able to establish that the wife had been served at the address where she was actually residing in Bihar. The respondent is entitled to a fair opportunity to contest the grounds of divorce put forth by the petitioner. As such, no ground is made out for setting aside the order dated 16.11.2016.

The petition is dismissed.

(M.M.S. BEDI)
JUDGE

July 14, 2017
harsha

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No