

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

F.A.O. No.134 of 2000 (O&M)

Date of Decision: 31.10.2017

Deep Sikha

..... Appellant

Versus

Ashok Kumar

..... Respondent

CORAM: HON'BLE MR. JUSTICE JASWANT SINGH

Present: Mr. Adarsh Jain, Advocate for the appellant.

Mr. Sumeet Sheokand, Advocate along with the respondent.

JASWANT SINGH, J. (ORAL)

The marriage between appellant-Deep Sikha and respondent-Ashok Kumar was solemnized on 18.11.1984 at Meerut (U.P.) and they lived in the matrimonial home at Faridabad. A son-Abhinav was born out of the wedlock on 28.01.1991. Due to matrimonial differences, wife-Deep Sikha along with minor son-Abhinav stated to have gone back to her parental home at Meerut in May, 1992. The respondent-husband filed a divorce petition at Faridabad on 13.02.1996 on the grounds of desertion and cruelty. Due to non-appearance of the wife inspite of service at the address at Meerut, she was proceeded *ex parte* and resultantly, an *ex parte* decree of divorce dated 11.05.1996 was passed.

Thereafter, the appellant-wife on 11.09.1996 filed an application under Order 9 Rule 13 of the Code of Civil Procedure for setting aside the aforesaid *ex parte* decree dated 11.05.1996 of divorce. Learned trial Court, on the basis of the evidence led on the issue, found that the wife had failed to appear despite service of summons through Process Server, as also substituted service through registered post and thereby dismissed the aforesaid application filed by the appellant-wife, vide

impugned order dated 08.02.1999. Hence, the present appeal.

This Court, while issuing notice of motion vide order dated 24.01.2000, had restraineded the husband from contracting second marriage. The appeal was admitted, vide order dated 07.09.2000, while affirming the interim order.

This Court, vide order dated 25.04.2017, keeping in view the separation of the parties since long and their advanced age, had directed them to appear before this Court. Subsequently, vide order dated 25.08.2017, an another opportunity was granted to the parties to be present in Court for an amicable settlement.

At the time of hearing, respondent/husband is present in Court, however, the appellant-wife has not come present.

Learned Counsel for the husband submits that his client has had absolutely no contact even with the son since the year 1998 and, therefore, both the sides have outgrown each other and moved on in their lives. Any kind of reconciliation is not possible.

Learned Counsel for the appellant-wife submits that inspite of telephonic reminders and a registered letter sent on 06.09.2017, his client has refused to come forward. Faced with the said situation, he has no objection if the present appeal is dismissed for non-prosecution.

In view of the above, the present appeal is dismissed for non-prosecution, however, liberty is granted to the appellant-wife for restoration of the appeal in case any application is filed within 90 days from today.

Since the main appeal stands dismissed for non-prosecution, the pending applications, if any, shall also stand disposed of.

October 31, 2017
Gagan

(JASWANT SINGH)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No