

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

CRR(F) No. 2 of 2017(O&M)

Date of decision: 12.1.2017

Gurdial Singh

....Petitioner

VERSUS

Smt. Kamlesh

.....Respondent

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present: Mr. Deepak Sharma, Advocate for the petitioner.

REKHA MITTAL, J.(Oral)

The present petition directs challenge against order dated 18.05.2016 passed by the District Judge, Family Court, Ambala whereby the objections preferred by the petitioner in execution qua recovery of maintenance allowed in favour of the respondent, have been dismissed.

Counsel for the petitioner has submitted that the respondent procured false report with regard to service of the petitioner on the basis whereof, the petitioner was proceeded against ex parte and ultimately culminated in ex parte judgment dated 20.08.2015 whereby the petitioner has been directed to pay maintenance at the rate of Rs.2,000/-per month and litigation expenses of Rs.3,000/-. It is further submitted that as the petitioner did not get proper opportunity to defend the proceedings and raise an issue that the respondent is not his legally wedded wife, therefore, is not entitled to get maintenance, the impugned order is liable to be set aside.

I have heard counsel for the petitioner, perused the paper-book particularly the order impugned.

Indisputably, the executing Court cannot go beyond the judgment passed by the trial Court. Any such plea available to a party during pendency of the proceedings that culminated in an ex parte judgment cannot be permitted to be raised by filing objections before the executing Court. If such a course is allowed to be adopted by the JD, there would be no end to the litigation. In this view of the matter, I do not find any illegality in the impugned order warranting intervention.

For the foregoing reasons, the petition fails and is dismissed in *limine*. As the petition has been disposed of on merits, application for condonation of delay is of academic relevance only.

Nothing stated in this order shall cause prejudice to the petitioner to take recourse to appropriate proceedings, in accordance with law, for challenging the ex parte order awarding maintenance.

JANUARY 12, 2017
'D. Gulati'

(REKHA MITTAL)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no