

FAO-M-71-2017

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-M-71-2017

Date of Decision: October 04, 2017

Rajni @ Rajnesh

...Appellant

Versus

Shiv Kumar

...Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Sandeep Kumar Yadav, Advocate
for the appellant.

Mr. Atul Yadav, Advocate
for the respondent.

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

The respondent-husband had been granted a decree under Section 9 of the Hindu Marriage Act, 1955, for restitution of conjugal rights, vide order dated 02.02.2017 passed by the Additional Civil Judge (Senior Division), Kanina and aggrieved by the said order, the wife has preferred this first appeal.

Pursuant to the notice issued to the respondent, he has put in appearance through his counsel. His power of attorney is taken on record. Counsel for the respondent has expressed inability to comply with the order dated 09.03.2017 requiring the respondent-husband to pay a sum of ₹ 20,000/- towards litigation expenses to the wife. He has also stated that he has got no objection in case, the appeal is allowed on merits. When counsel was asked the reason, he has made available a photocopy of the

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judgment and decree dated 07.07.2017 passed in HMA Case No.274 of 2015/2016, titled 'Smt. Rajnesh Kumari @ Rajni Vs. Shiv Kumar', by Ms. Neena Chaudhary, District Judge, Narnaul, by virtue of which, the application under Section 13 of the Hindu Marriage Act filed by the appellant-wife, has been allowed. Copy of the judgment and decree dated 07.07.2017 is taken on record. Counsel for the respondent informs that the decree for divorce has been accepted by him and he would not file any appeal against the decree.

In view of the abovesaid circumstances and the fact that the respondent-husband has not fulfilled the requirement of interim order dated 09.03.2017, the present appeal is allowed and the decree under Section 9 of the Hindu Marriage Act passed in favour of the respondent-husband vide judgment and decree dated 02.02.2017 is hereby set aside.

The right of the appellant-wife to recover the amount on the basis of the order dated 09.03.2017 will not be prejudiced.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

October 04, 2017
Harish

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