

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

FAO-M-442-2016 (O&M)
Date of Decision: 15.11.2018

Jagdish Singh

. Appellant

Vs.

Sarabjit Kaur

. Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE ANUPINDER SINGH GREWAL

Present: - Mr.B.S. Jaswal, Advocate,
for the appellant.

Mr.M.K. Bhatnagar, Advocate,
for the respondent.

RAKESH KUMAR JAIN, J. (ORAL)

This appeal has been filed by the husband against the judgement and decree of the trial Court by which his petition filed under Section 13 of the Hindu Marriage Act, 1955 [for short 'the Act'] for dissolution of his marriage by way of decree of divorce on the ground of cruelty and desertion has been dismissed.

An application filed by the respondent-wife bearing CM No.182 of 2017 was decided by this Court on 3.7.2018 and the appellant was directed to pay the entire arrears of maintenance *pendente lite* and litigation expenses on or before 20.8.2018. Thereafter, the case was adjourned on the request of counsel for the appellant but on the request of counsel for the respondent it was ordered to be shown in urgent list as the matter was pertaining to the payment of maintenance.

Learned counsel for the appellant has submitted that the appellant is not in a position to pay the arrears of maintenance and litigation

expenses on account of his illness but after going through the medical record produced by the counsel for the appellant, we are of the considered opinion that the appellant was admitted as indoor patient only for six days and hence we do not find any reason to grant any further opportunity to the appellant for the payment of maintenance *pendente lite*.

Since the appellant has not complied with the order dated 3.7.2018 passed by this Court, therefore, his defence is hereby struck off and as a result thereof, in the absence of any evidence which is now taken off the record, the mere pleadings cannot prove the case of the appellant for grant of divorce. The appeal is thus hereby dismissed as such. However, before parting, it is made clear that the respondent may avail her remedy available in accordance with law, for the purpose of recovering the amount of maintenance determined by this Court.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

15.11.2018

Vivek

Whether speaking /reasoned : *Yes/No*

Whether Reportable : *Yes/No*