

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

(217)

**FAO-M-87-2016 (O&M)
Decided on: March 14, 2018.**

Kulwinder Kaur

....Appellant

Versus

Ranjeet Singh

..... Respondent

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE GURVINDER SINGH GILL**

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

Mr. Ranjit Sharma, Advocate, for the respondent.

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

Heard on application i.e. CM-4344-CII-2016 for condonation of
delay in filing of the appeal.

The affidavit filed by the appellant shows that she had come to know about the ex-parte decree dated 12.09.2014 on receipt of letter from the Army authorities requiring her to submit certificate to the effect whether she had remarried. On making inquiries regarding discontinuance of her maintenance, she was informed by the Army authorities that her husband had obtained decree of divorce as such no maintenance was given to her.

There are sufficient reasons for condoning the delay. The miscellaneous application i.e. CM-4344-CII-2016 is allowed. Delay of 469 days in filing the appeal is condoned.

Perusal of the ex-parte judgment and decree indicates that the appellant was proceeded against ex-parte as she did not appear despite service.

We have gone through the record of the lower Court which indicates that notice had been issued to the appellant at the following address
“Kulwinder Kaur wife of Ranjeet Singh, VPO Attari, Tehsil and District Amritsar.”

It is claimed by the appellant-wife that she was got proceeded against ex-parte by giving incomplete address by the respondent. The appellant claims that Army authorities had issued a letter dated 19.12.2015 by virtue of which maintenance of the appellant had been discontinued on account of ex-parte decree of divorce obtained by the respondent. Address of the appellant in letter dated 19.12.2015 mentioned by the Army authorities is as follows:

“ Smt. Kulwinder Kaur w/o Hav Ranjeet Singh, d/o Shri Baldev Singh, Vill and PO Attari (Mohalla Mohantpura) Tehsil and District Amritsar State Punjab PIN 143108.”

The above said fact clearly indicates that the appellant could have been served in case her correct address as mentioned hereinabove given in the memo of parties by the respondent.

The respondent has intentionally omitted to mention specifically “Mohalla Mohantpura” with exact “PIN 143108” as a result of which she could not be served by registered post as well as by publication.

The order passed by the lower Court on 04.08.2014 proceeding ex-parte against the appellant-wife, is, therefore, illegal and not sustainable in the eyes of law. The said order of ex-parte culminated into ex-parte decree on 12.09.2014 after recording of the ex-parte evidence of three witnesses PW-1 Ranjeet Singh, PW-2 Baldev Singh and PW-3 Gian Singh.

Perusal of the lower Court record indicates that the appellant having not been served at her correct address and the respondent having intentionally withheld the exact address, there are sufficient reasons for non-appearance of the appellant before the lower Court as such ex-parte proceedings are liable to be set aside. Order dated 12.09.2014 passing ex-parte decree against the appellant-wife, is also illegal.

Without expression of any opinion on merits, the appeal is allowed and the ex-parte judgment and decree dated 12.09.2014 are hereby set aside. It is ordered that both the parties will appear before the District Judge, Amritsar on 21.04.2018. Appellant-wife Kulwinder Kaur will present written statement before the District Judge, Amritsar or any Court to whom the case is entrusted, who will proceed with the case with effect from the stage of the case as it existed on 04.08.2014.

It is made clear that since both the parties are represented through their counsel, they will be deemed to have a notice of the date fixed before the District Judge, Amritsar and will be required to appear before the said Court as directed hereinabove.

(M.M.S. BEDI)
JUDGE

March 14, 2018.
harsha

(GURVINDER SINGH GILL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No