

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-317-2018 (O&M)

Date of Decision:- 19.1.2018

Sarwan

... Appellant

Versus

Smt. Savita

... Respondent

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

Present:- Mr. Parveen Sharma, Advocate for
Mr. Pankaj Bali, Advocate for the appellant.

M.M.S. BEDI, J.

This is husband's appeal against order dated 7.12.2017 dismissing his petition for decree of divorce on the ground of having not paid the entire arrears of maintenance *pendente lite* as per the order passed by the Court on 25.4.2016.

Perusal of the impugned order indicates that no one had put in appearance on behalf of the appellant on 7.12.2017 as such the petition has also been dismissed in default.

We have carefully considered the circumstances of the present case and are of the opinion that an order passed by a Court dismissing a case for non appearance under Order 9 Rule 8 of CPC can be questioned by filing an application under Order 9 Rule 9 of CPC. If any such application is rejected, the order is appealable under Order 43 Rule 1(c) of CPC.

This appeal is liable to be disposed of in limine being not maintainable on account of the statutory alternative remedies available to him.

The counsel for the appellant has submitted that the appellant is ready to clear all arrears of maintenance as per the order dated 25.4.2016.

The appeal is disposed of in limine relegating the appellant to avail the alternative remedy of filing an application under Order 9 Rule 9 of CPC within a period of 15 days. It is ordered that in case the application is supported by a bank draft of entire arrears of maintenance *pendente lite* as per the order dated 25.4.2016, the application shall be considered and decided in accordance with law expeditiously.

(M.M.S. Bedi)
Judge

19.1.2018
pankaj

(Gurvinder Singh Gill)
Judge

Whether speaking /reasoned Yes / No

Whether Reportable Yes / No