

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

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FAO No. 6631 of 2017 (O&M)

Date of Decision : 5.4.2018

Amar Verma

....Appellant

vs.

Sonia Sahi

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr.K.S.Dadwal, Advocate
for the appellant.

Mr. Vishal Gupta, Advocate
for the respondent.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the order of the matrimonial Court allowing an application under Order 9 Rule 13 of the CPC whereby the respondent had prayed that the ex parte proceedings and the ex parte decree of the divorce obtained by the appellant were illegal.

The case of the respondent was that in the divorce petition the appellant had given his own address as the address of the appellant and even the address at Australia which he had given was wrong to his knowledge. The case of the appellant on the other hand was that firstly the application was filed through Power of Attorney and the attorney could not have deposed about the facts which were only in the knowledge of the respondent. The second submission was that once the petition for setting aside the ex parte proceedings was filed after the appellant had got married (after waiting for the statutory period) the same is infructuous. The third

ground taken by the appellant was that despite the fact that the application was filed 1 year and 8 months after the decree, no application for condonation of delay was filed. The fourth argument urged by the counsel for the appellant is that once publication was made in the newspaper which had wide circulation where the parties last resided together in Australia, it would be deemed to be an adequate service. All these arguments were brushed aside by the Court below leading to this appeal. The Court found that the appellant had intentionally given the wrong addresses of the respondent in the divorce petition. To my mind, this is a very crucial point because this clearly indicates that right from the beginning the intention of the appellant was to overreach the Court and, some how or the other engineer an ex parte order. It can also not lost sight of that an order of publication is an order of last resort where the Court is convinced that the opposite party is avoiding the service. In the present case once the address itself was wrongly given there was no justification for ordering publication. No amount of legalese can cure this fundamental flaw in the conduct of the appellant.

In the circumstances, the appeal stands dismissed.

Since the main case has been decided, the pending civil miscellaneous application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

5.4.2018
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Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No