

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

FAO-M-289 of 2017

Date of decision: October 12, 2018

Simardeep Kaur

...Petitioner

Versus

Satish Kumar

...Respondent

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain
Hon'le Mr. Justice Harinder Singh Sidhu

Present: Ms. Suminderdeep Kaur, Advocate for
Mr. Rajiv K. Kapila, Advocate for the appellant.

Mr. Satbir Rathore, Advocate for the respondent.

Rakesh Kumar Jain, J. (Oral)

This appeal is directed against the order dated 16.8.2017 passed on an application filed under Section 9 of Hindu Marriage Act, 1955 (for short 'the Act') by the respondent. The parties to the lis got married on 5.7.2013 as per Sikh rites in India. They do not have any child out of the wedlock. The respondent had filed an application under Section 9 of the Act for seeking restoration conjugal rights because the appellant was allegedly deserted without any reasonable excuse. The said application was allowed by order dated 16.8.2017 after contest. Although the appellant has challenged the impugned order passed under Section 9 of the Act but she did not return to her matrimonial home and resume habitation with her husband. However, the respondent had filed divorce petition under section 13(i)(a)(b)(ii) of the Act, for dissolution of marriage. In the second petition, counsel for the appellant was served but she did not choose to appear and therefore, she was proceeded

against ex parte. The Additional Sessions Judge, Hoshiarpur has allowed the petition filed by the respondent on the ground of cruelty and desertion and dissolved their marriage vide order dated 17.5.2018.

Counsel for the appellant has categorically submitted before this Court that the appellant has not challenged the decree of divorce dated 17.5.2018 by way of filing of appeal. In this regard, counsel for the respondent has submitted that question of challenging the order passed under Section 9 of the Act at the instance of the appellant do not arise in view of subsequent events which have taken place by virtue of grant of decree of divorce to the respondent against the appellant by the competent Court of law.

We fully agree with the contention of the counsel for the respondent that the issue of restitution of conjugal rights would not arise at all now after the decree of divorce has already been passed. Therefore, the present appeal is held to be redundant in view of order of decree of divorce dated 17.5.2018 passed against the appellant.

Dismissed as such.

(Rakesh Kumar Jain)
Judge

(Harinder Singh Sidhu)
Judge

October 12, 2018
Meenu

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