

CR-2217-2018 (O&M)

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

CR-2217-2018 (O&M)

Date of decision : 13.05.2019

Harjinder Kaur

... Petitioner

Versus

Sukhwant Singh

... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Ms. K.S. Walia, Advocate
for the petitioner.

AMIT RAWAL, J. (ORAL)

This Court, on the last date of hearing, had passed the following order:-

"There is no representation on behalf of the petitioner, even on second call, though there is application making the prayer for converting the revision petition into second appeal. The petitioner is the wife, who had filed the petition under Section 9 of the Hindu Marriage Act, 1955 (in short 'the 1955 Act'), which was dismissed and instead of filing the appeal under Section 28 of the 1955 Act, preferred an appeal before the lower Appellate Court. The second appeal does not lie, even otherwise, the powers under Section 9 of the 1955 Act vest with the Family Court and in the absence of establishment of the Family Court, some powers of District Judge have been delegated to Civil Judge, that cannot be construed to be an order passed by the Civil Judge.

The petitioner has not disclosed the aforementioned fact.

In the interest of justice, adjourned to 13.05.2019."

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Learned counsel for the petitioner submitted that the present revision petition may be converted into second appeal.

Keeping in view the aforementioned facts, the prayer of learned counsel for the petitioner is not sustainable as the order dated 22.08.2016 was passed, in the petition under Section 9 of the Hindu Marriage Act, by the Civil Judge, who was the delegatee of the Principal Court, for the adjudication of the matter. Section 28 of the Hindu Marriage Act, enables the aggrieved party, to assail the order, by filing the appeal i.e. FAO. In such circumstances, the petitioner shall be at liberty to file the appeal. In case of availment of remedy, if any, shall be entitled to seek the benefit under Section 14 of the Limitation Act.

With the aforesaid observations, the present revision petition stands disposed of.

In view of above, no further order is required to be passed in the application bearing CM No.8276-CII of 2019 and accordingly, the same is also disposed of.

13.05.2019
Yogesh Sharma

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned **Yes/ No**

Whether Reportable **Yes/ No**