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

CR No. 3168 of 2017

Date of Decision: 25.01.2019

Amarjit Singh

-Petitioner

Vs

Satinder Pal Kaur

-Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Sudhir Sharma, Advocate, for
Mr. Sanjeev Sharma, Advocate,
for the petitioner.

Ms. Naveen Malik, Advocate,
for the respondent.

RAJ MOHAN SINGH, J. (ORAL)

Perusal of the record would show that proceedings before Mediation and Conciliation Centre of this Court did not fructify.

The case was listed for arguments vide order dated 23.04.2018.

Notice of motion was issued on 18.05.2017 on the ground that due to inadvertent error, learned counsel for the petitioner before the trial Court had noted wrong date as 23.05.2011 in place of 23.04.2011. On 23.04.2011, the case was further adjourned to 12.05.2011 i.e. the date on which learned

counsel for the petitioner did not appear and exparte judgment and decree was passed.

An application for setting aside exparte judgment and decree filed by the petitioner was also dismissed for non-prosecution under Order 9 Rule 8 CPC on 04.04.2015. An application was filed under Order 9 Rule 9 CPC for setting aside the order dated 04.04.2015 and the same was also dismissed by the trial Court on 12.01.2016.

With this background, the present revision petition was filed.

On 02.08.2018, during course of hearing of this revision petition, learned counsel for the respondent submitted that an amount of Rs.8000/- per month was granted as maintenance in favour of respondent-wife w.e.f. 03.02.2004. As on date, only an amount of Rs.75,000/- has been paid towards arrears of maintenance.

Directions were issued to the petitioner to clear entire arrears of maintenance before arguing the petition before the adjourned date i.e. 10.09.2018.

On 10.09.2018, demand draft in a sum of Rs.2,50,000/- in the name of the respondent was tendered in the Court and the same was handed over to the respondent and the case was adjourned for further consideration in the light of

order dated 02.08.2018. The remaining amount was not paid and the case was further adjourned to 27.11.2018.

On 27.11.2018, following order was passed:-

“As per order dated 2.8.2018, petitioner was directed to clear all the pending arrears of maintenance till date before the adjourned date i.e. 10.9.2018. On 10.9.2018, a demand draft in a sum of ₹ 2,50,000/- was given to the respondent and the case was adjourned to 30.10.2018. The turn of the case did not reach on the date fixed and the same was further adjourned to 12.11.2018 i.e. the date on which the case was further adjourned for today, on the request of learned counsel for the petitioner.

Today a cheque bearing No. 661947 dated 24.11.2018 for a sum of ₹ 1,00,000/- has been handed over to learned counsel for the respondent towards part clearance of the arrears of maintenance. Though there is no reason to grant any further adjournment on the issue of clearance of pending maintenance in view of order earlier passed on 2.8.2018, but in the interest of justice one last opportunity is

granted to the petitioner to clear entire arrears of maintenance till date before the adjourned date, failing which this petition shall be treated to be dismissed for non prosecution.

List again on 21.1.2019.”

Perusal of the aforesaid order would show that in the event of non-payment of entire arrears of maintenance, this case was to be treated as dismissed for non-prosecution with deeming fiction.

Despite the aforesaid order, a request was made by learned counsel for the petitioner on 21.01.2019 and the same was accepted and the case was adjourned for today.

Learned counsel appearing on behalf of the petitioner is not in a position to show any compliance of the orders passed by this Court in the context of payment of remaining arrears of maintenance.

It appears from the conduct of the petitioner that he is not interested to comply with the orders passed by the Court despite making assurances to pay the entire arrears of maintenance.

Order dated 27.11.2018 has the effect of dismissal of this petition without making any further reference to the Court.

The conduct of the petitioner is depreciable for which he can be directed to pay costs of Rs.25,000/- to the respondent.

The amount of costs (if not paid directly to the respondent) shall be recovered from the petitioner along with remaining arrears of maintenance in accordance with law.

This revision petition is accordingly, dismissed.

25.01.2019
Jyoti Yadav

(RAJ MOHAN SINGH)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No