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

**CR No.7840 of 2018 (O&M)
Date of Decision: 09.01.2019**

Anand Sehgal

Petitioner

Versus

Anamika

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. P.S. Sullar, Advocate
for the petitioner.

Mr. Paramjit Jakhar, Advocate for
Mr. Robin Lohan, Advocate
for the respondent.

AVNEESH JHINGAN, J (Oral):

The present civil revision petition has been filed by the petitioner being aggrieved of the order dated 23.10.2018 passed by the Additional District Judge, Kurukshetra [hereinafter referred to as 'District Judge'] dismissing the application for setting aside the *ex-parte* order dated 25.04.2018.

2. The facts in brief are that the respondent-wife filed a petition under Section 13 of the Hindu Marriage Act, 1955 [for brevity 'the Act']. Notice was issued to the petitioner-husband for 25.04.2018. In spite of service of notice, the petitioner failed to appear before the learned District Judge and was proceeded against

ex-parte on that very date. After coming to know about this fact on 20.07.2018, an application was moved for setting aside the *ex-parte* order. The said application was dismissed as the learned District Judge opined that the petitioner intentionally did not appear on the date fixed. Aggrieved of the order, the present civil revision petition has been filed.

3. Learned counsel for the petitioner contends that there are number of litigation pending between the petitioner and the respondent and due to misunderstanding, the petitioner failed to appear on 25.04.2018. He further contends that there is no intention to delay the proceedings.

4. Learned counsel for the respondent argues that the entire endeavour of the petitioner is to delay the petition under Section 13 of the Act and to harass the respondent, for this reason inspite of service, the petitioner did not put in appearance.

5. The petitioner was proceeded against *ex-parte* on very first date for which notice was issued. There is no denial to the fact that notice was duly served upon the petitioner. Be that as it may, the proceedings are regarding dissolution of marriage. It would be against the interest of the parties that such proceedings are proceeded against *ex-parte*. It would be appropriate to afford an opportunity to the petitioner to defend the proceedings under Section 13 of the Act. For non-appearance of the petitioner, the respondent had to face litigation for opposing the application made for setting aside the *ex-parte* order and then to defend the present petition. In

such circumstances, order dated 25.04.2018 whereby the the petitioner was proceeded against *ex-parte* is set aside, subject to payment of costs of ₹10,000/- to the respondent.

6. The petition is allowed in aforesaid terms.

[AVNEESH JHINGAN]
JUDGE

January 09th, 2019
pankaj baweja

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