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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

SANJIV KUMAR SHARMA
10/05/2019 16:39
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CR-3079-2019 (O/M)
Date of decision : 10.5.2019

Harpreet Kaur Petitioner (s)

Versus

Sandeep Singh Respondent (s)

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Kapil Khanna, Advocate,
for petitioner.

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-:-

KULDIP SINGH, J. (ORAL)

Impugned in present revision is order dated 2.2.2019 (Annexure-P-4), passed by learned Principal Judge, Family Court, Jalandhar, vide which an application filed by petitioner under Section 152 CPC, 1908, for correction of order dated 5.9.2018 (Annexure-P-2), passed by learned Additional District Judge, Jalandhar, was dismissed.

Heard.

Petitioner has filed petition under Section 13 of Hindu Marriage Act, 1955, for dissolution of marriage by decree of divorce. In the said petition, an application under Section 26 of Hindu Marriage Act, 1955, was also filed for getting permanent custody of two minor children. Said divorce proceedings have been decided and divorce has been decided in favour of petitioner.

The plea of learned counsel for petitioner before trial Court was that in the judgment and decree dated 5.9.2018 (Annexure-P-2), passed by learned Additional District Judge, Jalandhar, no reference has been made to application filed by petitioner under Section 26 of Hindu Marriage Act, 1955, regarding custody of both minor children. The learned counsel

for petitioner does not deny that two minor children are in custody of petitioner. The prayer is that permanent custody of minor children should be granted to petitioner.

Since minor children are in custody of petitioner, other party can get custody only after moving the Court and proving the grounds to get custody of minor children. Therefore, application filed by petitioner under Section 26 of Hindu Marriage Act, 1955, was superfluous and stands disposed of accordingly. Revision petition is accordingly disposed of with abovenoted observations.

(KULDIP SINGH)
JUDGE

10.5.2019
sjks

Whether speaking order : Yes / No

Whether reportable : Yes / No