

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

FAO-9516-2014

Date of Decision: 24.10.2019

Naresh Kumar

...Appellant

Versus

Smt. Rajani

...Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJAN GUPTA.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Sanjay Verma, Advocate for the appellant.

Ms. Harpreet Kaur, Advocate for
Mr. Amit Jain, Advocate for the respondent.

RAJAN GUPTA, J.

Present appeal is directed against the judgment and decree dated 21.6.8.2014 passed by District Judge, Family Court, Gurgaon, whereby petition filed by appellant-husband under Section 13 of the Hindu Marriage Act, 1955 (for short 'the Act') seeking dissolution of marriage, was dismissed.

Marriage between the parties was solemnized on 19.2.2007 according to Hindu rites and ceremonies at Dayanand Colony, Gurgaon. After marriage, they resided together as husband and wife at village Nanukalan, Tehsil Pataudi, District Gurgaon. Out of their wedlock, a male child was born in October, 2008. According to the appellant, respondent started pressurizing him to shift Gurgaon to the house of her parents. On refusal, respondent left the matrimonial home in April, 2008 and since then she was living in her parental home. Appellant also filed a petition under

Section 9 of the Act which was dismissed as withdrawn on the statement made by respondent and she was ready to accompany appellant. The appellant made efforts to save marriage, but to no avail. Accordingly, the appellant filed a petition under Section 13 of the Act, *inter alia*, alleging mental cruelty and desertion. Upon notice, respondent-wife controverted the allegations by filing a written statement. It was pleaded therein that the appellant was a drunkard and used to beat her. She was ready and willing to live with him but he refused to do so. On the basis of the oral as well as documentary evidence led by the parties, the trial court came to the conclusion that appellant had failed to prove desertion and cruelty. Accordingly, the petition filed by appellant was dismissed vide judgment and decree dated 29.3.2016. Present appeal emanates from the said order.

During the pendency of appeal, the matter was referred to Mediation and Conciliation Centre of this court for amicable settlement. However, it proved to be a futile exercise as the mediation had failed.

We have considered the rival contentions of counsel for the parties. It appears that trial court while appreciating the evidence and other material on record held that there was nothing on record to show that the respondent had ever treated the appellant with cruelty or deserted him. Further, no such act of cruelty has been mentioned by appellant which had become dangerous for appellant to live with respondent. The allegations levelled by the appellant against the respondent seems to be general in nature. Keeping in view the facts and circumstances of the case, we feel that no interference in the judgment and decree passed by the court below, is called for. The appellant has totally failed to prove the allegations levelled by him in the petition. We have reappraised the evidence on record and are

of the view that findings have been correctly returned by the court below.

In view of above, we find no reason to differ from the findings arrived at by the court below. Accordingly, the appeal being devoid of any merit, is hereby dismissed. Decree-sheet be prepared accordingly.

(RAJAN GUPTA)
JUDGE

October 24, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No