

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

FAO No.5761 of 2019 (O&M)
Date of decision: September 18, 2019

Rohit Sikand

...Appellant

Versus

Sapna Sikand

...Respondent

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

Present: Mr. Vikas Mohan Gupta, Advocate for the appellant.

Rajan Gupta, J.(oral)

Appellant has impugned the order passed under Order 9 Rule 13 CPC, whereby application for setting-aside ex-parte order dated 11.08.2016 and ex-parte judgment dated 23.08.2016, has been allowed and petition under Section 13 of the Hindu Marriage Act has been restored to its original position and number. He has impugned the order. Referring to certain Zimni orders passed, he submits that respondent-wife appeared before the court on one occasion, thereafter failed to appear. The court, thus, rightly passed the ex-parte decree.

A perusal of the order shows that trial court has taken into consideration all the facts and circumstances of the case. It noted that applicant/respondent Sapna Sikand was proceeded ex-parte on 11.8.2016 as she was not present on 22.4.2016 nor on 24.5.2016. It came to the conclusion that it is usual for the court to issue the notice to the other party

or proceed ex-parte on the very first date when the party does not appear. It, thus, accepted the explanation of the applicant that she was expecting a court notice thereafter, which was not issued. There was no reason for her not to appear or to contest, when she had hotly contested the petition before the Family Court as well as before the High Court. Finding that the applicant had got no opportunity to cross-examine the petitioner, the application of the respondent-wife was allowed.

During the course of hearing, we have asked Mr. Gupta about the stage of proceedings. He has fairly submitted that only Rohit Sikand and his witnesses are to be cross-examined. Under the circumstances, we find no ground to interfere in the findings arrived by the trial court. It shall be in the interest of justice if respondent gets full opportunity to present her case before the court.

Dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 18, 2019
'Rajpal'

Whether speaking / reasoned	Yes / No
Whether Reportable:	Yes / No