

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

CRM-M-42382-2019
Date of Decision:-14.10.2019

MUKHTYAR SINGH

... Petitioner

Versus

STATE OF HARYANA AND ANOTHER

... Respondents

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Manish Soni, Advocate
for the petitioner.

GURVINDER SINGH GILL, J. (Oral)

1. Learned counsel for the petitioner has approached this Court assailing ex-parte order dated 19.09.2017 (Annexure P-5), whereby the learned Court of Judicial Magistrate Ist Class while deciding an application under Section 12 of Domestic Violence Act, 2005 has awarded maintenance to respondent No.2-Sunita to be paid by the petitioner, who is father-in-law at the rate of ₹15,000/-per month.
2. Learned counsel has submitted that in fact the Trial Court, in impugned order has placed reliance upon order dated 4.12.2013 whereby the learned Judicial Magistrate Ist Class had earlier awarded interim maintenance at the

rate of ₹12,500/- whereas said order dated 4.12.2013 had already been set aside by the Court of Additional Sessions Judge, vide order dated 4.9.2014 (Annexure P-4). Learned counsel has further submitted that since the aforesaid impugned order suffers from a grave infirmity, therefore, the order dated 11.9.2019 (Annexure P-8) passed in an execution petition deserves to be set aside.

3. I have heard learned counsel for the petitioner. Although impugned ex-parte order (Annexure P-5) was passed by Judicial Magistrate Ist Class, Gurugram was passed on 19.9.2017, but somehow the petitioner till date has not chosen to challenge the same by way of filing any appeal/revision before the Court of Sessions.
4. Faced with the aforesaid position, learned counsel for the petitioner submits that he may be permitted to withdraw this petition with liberty to approach the Court of Sessions.
5. In view of the aforesaid position, the petition is dismissed as withdrawn with liberty to the petitioner to approach the Court of Sessions to enable him to avail of appropriate remedy in the matter, in accordance with law, which shall be duly considered by the Court of Sessions. In case any delay condonation application is filed alongwith such appeal/revision, the Court concerned shall consider of the same sympathetically while bearing in mind the fact that the impugned order is an ex-parte order.

(GURVINDER SINGH GILL)
JUDGE

14.10.2019
Gaurav Sorot

Whether reasoned / speaking?	Yes / No
Whether reportable?	Yes / No