

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

FAO-M-439-2015 (O&M)
Date of Decision:08.04.2019

Rajwinder Kaur @ Rajinder Kaur

. Appellant

Vs.

Kulwant Singh

. Respondent

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN
HON'BLE MR.JUSTICE HARNARESH SINGH GILL

Present: - Ms.Sukhpreet Kaur, Advocate,
for the appellant.

None for the respondent.

RAKESH KUMAR JAIN, J. (ORAL)

This appeal has arisen from the judgment and decree dated 25.9.2015 by which a petition filed under Section 13 of the Hindu Marriage Act, 1955 [for short 'the Act'] by the respondent-husband for seeking dissolution of his marriage with the appellant-wife has been allowed.

In brief, the marriage of the parties was solemnized at Kapurthala on 14.12.1987. They were blessed with one daughter, namely, Daljit Kaur, who has unfortunately died within the period of 2 years of her birth. The respondent-husband had filed the petition under Section 13 of the Act on the ground of cruelty and desertion which has been allowed by the learned trial Court.

During the pendency of this appeal, an application filed by the appellant-wife under Section 24 of the Act was allowed on 07.02.2018 and the respondent-husband was directed to pay ₹7000/- per month towards maintenance *pendente lite* w.e.f. April 2017 along with litigation expenses of

₹25,000/-. The said order has not been complied with so far. As a matter of fact, the respondent stopped appearing and was proceeded against *ex parte* vide order dated 30.5.2018 and since the amount of arrears of maintenance was not paid despite opportunity was given repeatedly to the respondent-husband, his defence was struck off on 06.12.2018.

Learned counsel for the appellant has submitted that the defence of the respondent has been struck off which has not been challenged before any Court, therefore, the present appeal may be allowed and judgement and decree dated 25.9.2015 passed in the petition filed by the respondent-husband before the Court below under Section 13 of the Act may be set aside.

Keeping in view the aforesaid facts and circumstances, much less the fact that the defence of the appellant has already been struck off by this Court, the present appeal is allowed and the impugned judgment and decree dated 25.9.2015 is hereby set aside.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

08.04.2019
Vivek

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