

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

Sr. No.211

CR No.16429 of 2018
Date of decision: 02.12.2019

Shiv Kumar

....Petitioner

versus

Asha Rani

....Respondent

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

Present: Mr. Deepak Girotra, Advocate
for the petitioner.

None for the respondent.

* * *

DEEPAK SIBAL, J. (Oral)

The present petition is directed against the order dated 15.12.2018 passed by the Principal Judge, Family Court, Rohtak (for short – the Trial Court) dismissing an application filed by the petitioner through which he had sought to produce the certified copies of the petition, written statement and judgment and decree of the Trial Court dated 22.12.2014 in proceedings between the parties under Section 13 of the Hindu Marriage Act, 1955 (for short – the Act).

In spite of service, no one has put in appearance on behalf of the respondent.

Learned counsel for the petitioner has been heard.

On 22.12.2014, the Trial Court while accepting the petitioner's petition filed by him against the respondent under Section 13 of the Act granted a decree of divorce. Thereafter, the respondent filed a petition under Section 7/25 of the Guardian and Wards Act, 1893 seeking therein custody of the minor children of the parties. On being put to notice, the petitioner appeared before the Trial Court and filed his reply. Thereafter, the Trial Court framed issues on which both parties led their evidence. When the matter was at the stage of final arguments, the petitioner filed an application under Section 151 CPC to produce on record certified copies of the divorce petition filed by the petitioner; written statement to the same filed by the respondent and judgment and decree dated 22.12.2014 passed by the Trial Court accepting the petitioner's divorce petition. The Trial Court dismissed the petitioner's application on the ground of delay and negligence on the part of the petitioner for having not produced the aforesaid documents at the time of leading of the petitioner's evidence. Such order of the Trial Court is under challenge in the present proceedings.

At the outset, learned counsel for the petitioner submitted that he restricts his claim to produce before the Trial Court only the certified copy of the judgment and decree of the Trial Court dated 22.12.2014 through which the parties were granted divorce and that he does not press the present petition qua production of the petitioner's divorce petition and the respondent's written statement to the same.

It is the admitted position that the parties were granted divorce through judgment and decree of the Trial Court dated 22.12.2014. That being so, if a certified copy of the same comes on record it would only assist the Trial Court to arrive at a just decision and since such decree is admitted

by both parties to have been passed, there would be no requirement of any further evidence to be led by either party in that regard.

In view of the above, the impugned order is set aside and the petitioner is permitted to produce on record of the Trial Court a certified copy of the judgment and decree of the Trial Court dated 22.12.2014 through which the parties were granted divorce. The parties may refer to the same at the time of final arguments which shall be considered by the Trial Court alongwith pleadings of both parties and evidence led by them in the present proceedings to finally adjudicate upon the respondent's petition.

The petition is allowed in the above terms.

(DEEPAK SIBAL)
JUDGE

December 02, 2019

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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No