

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

123

CR-543-2020 (O&M)

DATE OF DECISION: 30.01.2020

GURWINDER KAUR

... Petitioner (s)

Versus

GURJIT SINGH

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Amit Arora, Advocate for the petitioner(s).

ANUPINDER SINGH GREWAL, J. (ORAL)

Learned counsel for the petitioner contends that the petitioner had been granted the custody of the minor in terms of the settlement with the respondent at the time of dissolution of their marriage by mutual consent on 03.12.2011. The custody of the minor child had remained with the petitioner and he was studying in school. The respondent had filed an application under Section 25 of the Guardians and Wards Act, 1890, seeking the custody of the minor child after 3 years on 21.05.2014. Ex parte judgment was passed on 22.09.2016. The petitioner learnt about the ex parte decree after initiation of the execution proceedings when the custody of the minor was taken away from the petitioner and handed over to the respondent. She had promptly preferred an application under Order 9 Rule 13 CPC for setting aside the ex parte decree on 02.08.2017, which has not been decided till date which has caused grave prejudice to the petitioner as the custody of her child has been taken away in execution of the decree passed

behind her back. He further submits that he is confining his prayer in this petition to the expeditious disposal of the application under Order 9 Rule 13 CPC.

Heard.

The request of the counsel appears to be just and reasonable. The application under Order 9 Rule 13 CPC is pending for over three years. Consequently, the petition is disposed of with a direction to the trial Court to consider and decide the application preferred by the petitioner under Order 9 Rule 13 CPC expeditiously, preferably within a period of 3 months from now.

(ANUPINDER SINGH GREWAL)
JUDGE

30.01.2020.

SwarnjitS

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No