

**THE HON'BLE Dr. JUSTICE SHAMEEM AKTHER
AND
THE HON'BLE SMT. JUSTICE JUVVADI SRIDEVI**

FAMILY COURT APPEAL No.216 OF 2009

JUDGMENT: (Per Hon'ble Dr.SA,J)

This appeal under Section 19 of the Family Courts Act, 1984, is filed by the appellant/husband challenging the order dated 17.04.2009 passed in I.A.No.710 of 2008 in F.C.O.P.No.330 of 2008 by the Judge, Family Court, Hyderabad, whereby the subject I.A. filed by the appellant/husband under Order 9 Rule 13 of CPC to set aside the *ex parte* decree, dated 01.09.2008 passed against him in F.C.O.P.No.330 of 2008 filed by the respondent/wife for divorce, was dismissed.

2. Heard the learned counsel for both sides and perused the record.

3. Learned counsel for the appellant/husband would contend that without issuing any notice to the appellant/husband, the Court below erroneously passed the impugned order dated 17.04.2009 and ultimately prayed to set aside the same and allow the appeal as prayed for.

4. On the other hand, learned counsel for the respondent/wife supported the impugned order and contended that there is proper service of notice on the appellant/husband

through courier and email and therefore, there are no grounds to interfere with the impugned order and ultimately prayed to dismiss the appeal.

5. As seen from the material placed on record, there is service of notice on the appellant through courier and email in the subject FCOP. The Court below was satisfied in relation to service of notice on the appellant/husband in the subject FCOP. Thereafter, the appellant/husband was set *ex parte* and *ex parte* decree was passed. So, the ground set up by the appellant/husband that without notice, the subject decree was passed is unsustainable. The Court below is justified in passing the *ex parte* decree. Under these circumstances, the appeal is devoid of merit and is liable to be dismissed.

6. Accordingly, the Family Court Appeal is dismissed.

Miscellaneous petitions pending, if any, shall stand closed.
There shall be no order as to costs.

Dr. SHAMEEM AKTHER, J

JUVVADI SRIDEVI, J

Date: 07.04.2022
ssp