

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

248

FAO-667-2020 (O&M)

Date of decision:- 29.11.2022

Ajay Bhushan

.... Appellant

Vs.

Smt. Anu

...Respondent

**CORAM: HON'BLE MS. JUSTICE RITU BAHRI
HON'BLE MRS. JUSTICE MANISHA BATRA**

Present: Ms. Naina Issar, Advocate for the appellant.

Respondent proceeded ex-parte vide order dated 24.11.2021

Ritu Bahri, J. (Oral)

The appellant has come up in the present appeal against the order dated 01.10.2019, passed by Principal District Judge, Family Court, Hisar, whereby his petition for divorce under Section 13(1)(i-a) of the Hindu Marriage Act, 1955 was dismissed under Order 17 Rule 3 of CPC as he had not lead any evidence and the petition pertains to the year 2016.

A perusal of this order shows that on that date, the counsel for the petitioner sought for an adjournment and he had not examined any witness since 2016. Counsel for the appellant has argued that a divorce petition was initially filed by the appellant in Kangra and respondent approached Hon'ble the Supreme Court and vide order dated 25.10.2017, Annexure A-2, divorce petition was transferred from Himachal Pradesh to Family Court, Hisar. Counsel for the appellant submits that after passing of this order, the appellant had sought time to lead evidence. On

09.04.2019, issues were framed and thereafter he was directed to lead evidence and during the pendency of the trial before the family Court at Hisar on 10.09.2019 litigation expenses was paid by the appellant. The appellant has placed on record all the zimni orders of the Family Court, Hisar and as per the order dated 10.09.2019, litigation expenses of Rs.11,000/- was paid and case was adjourned to 01.10.2019 for entire evidence of the appellant. Thereafter on 01.10.2019, the petition was dismissed by observing that petitioner has not lead evidence since 2016.

The very fact that vide order dated 25.10.2017 passed by Hon'ble the Supreme Court, the case was transferred to Hisar and even in Family Court, Hisar, the issues were framed on 09.04.2019, the petition could not be dismissed on the ground that since 2016, he has lead no evidence.

In the present case, respondent has not appeared after service and she is proceeded against ex parte vide order dated 24.11.2021.

Accordingly, the present appeal is allowed and order dated 01.10.2019, passed by Principal District Judge, Family Court, Hisar is hereby set aside while directing the Family Court, Hisar to give three effective opportunities to the appellant-Ajay Bhushan to conclude his evidence.

(RITU BAHRI)
JUDGE

(MANISHA BATRA)
JUDGE

29.11.2022
pooja saini

Whether speaking/reasoned

: Yes/No