

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

115

**CR-8433 of 2018 (O&M)
Date of decision: 24.11.2022**

Sukhjinder Singh

..Petitioner

Versus

Rajwant Kaur

..Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Rajeshwar Singh, Advocate, for the petitioner.

ANIL KSHETARPAL, J(Oral)

The petitioner herein is the husband of the respondent. The husband's petition under Section 13 of the Hindu Marriage Act, 1955 for dissolving the marriage by way of a decree of divorce was allowed ex-parte on 02.01.2015. On an application filed by the respondent under Order IX Rule 13 CPC, the Court has set aside the ex-parte decree of divorce. The petitioner's application for review of the aforesaid order has also been dismissed.

The learned counsel representing the petitioner contends that in the proceedings under Order IX Rule 13 CPC, the petitioner was not properly served. Hence, he submits that the order should be set aside.

In my considered view, at the first instance, the petitioner is required to file an application under Order IX Rule 13 read with Section 141 of the Code of Civil Procedure, 1908, before the trial Court. The petitioner has not challenged the correctness of the impugned order on merits but alleges that he was not properly served. As per explanation 2 to Section 141 of the Code of Civil Procedure, 1908, the miscellaneous proceedings includes the proceedings under Order IX of the Code of Civil Procedure,

1908.

Hence, the revision petition is disposed of with liberty to the petitioner to file an appropriate application before the Family Court.

All the pending miscellaneous applications, if any, are also disposed of.

November 24, 2022

(ANIL KSHETARPAL)
JUDGE

nt

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>