

**CM-6780 & 6785-CII of 2023 in/and FAO-608 of 2023
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CM-6780-CII of 2023,
CM-6785-CII of 2023 in/and
FAO-608 of 2023
Date of Decision:25.05.2023**

Jasvir Singh

.....Applicant-Appellant

Versus

Jagdeep Kaur and others

..... Non-applicant-Respondent

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

HON'BLE MRS. JUSTICE RITU TAGORE

Present: Mr. G.S.Sidhu, Advocate
for the applicant-appellant.

Mr.Mohit Kumar, Advocate
for the non-respondent.

LISA GILL, J(Oral).

CM-6785-CII of 2023.

Annexures P-4 to P-6 are taken on record subject to just exceptions.

Application is accordingly disposed of.

CM-6780-CII of 2023.

Prayer in this application is for preponement of hearing of this appeal, which is listed on 02.08.2023.

Notice of the application.

Mr. Mohit Kumar, Advocate, accepts notice on behalf of the non-applicant-respondent and does not raise objection to preponement of hearing of this appeal.

At request and with consent of learned counsel for the parties, hearing of this appeal is preponed from 02.08.2023 for today itself.

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Application is accordingly disposed of.

FAO No. 608 of 2023 (O&M).

1. This appeal has been filed by the appellant, husband of respondent no.1 and father of respondents no.2 and 3, challenging judgment and decree dated 07.11.2016, passed by the learned Family Court, Barnala, whereby civil suit filed by respondents was partly decreed while directing recovery of maintenance allowance at the rate of ₹5000/- per month to respondent no.1 and ₹4000/- per month to respondents no.2 and 3 respectively, from the date of filing of the civil suit by creating charge over the suit property and the present appellant was restrained from alienating or disposing of the suit property.

2. Learned counsel for the appellant submits that petition for maintenance was filed by the respondents in the year 2015-2016 as matrimonial discord had arisen between the appellant and respondent no.1. However, relations between the appellant and respondents subsequently became harmonious and all of them started living together at the matrimonial home. All of them having decided to have the judgment and decree dated 07.11.2016 set aside, filed a suit for declaration to this effect, albeit under mistaken advice. The same was dismissed being not maintainable on 10.03.2021, by the learned Civil Judge (Jr. Division), Barnala. Yet again, under mistaken/ incorrect legal advice, appeal was filed, challenging decision dated 10.03.2021. However, later appellant came to know that the correct and proper remedy was not being pursued by him. Accordingly, present appeal was filed for setting aside judgment and decree

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dated 07.11.2016, passed by the learned Family Court, Barnala. Appeal No. 7/2021, challenging decision dated 10.03.2021, was withdrawn.

3. It is pointed out that separate affidavits of all the three respondents have been filed, wherein it is categorically stated that there are harmonious relations between all the parties and they have been residing together. Furthermore, money was required by them for sending the children i.e., respondents no.2 and 3 abroad for further studies. For this purpose, they seek to sell the agricultural land. Respondents no.2 and 3, are aged 25 and 20 respectively.

4. Learned counsel for the respondents affirms and verifies that the parties are living together in the matrimonial home and that they require money for sending the children abroad for further studies, for which the appellant seeks to dispose of the land in question.

5. There is a delay of 1521 days in filing of this appeal, which is clearly rendered academic in view of the decision as above. Application is disposed of accordingly.

6. Keeping in view the peculiar facts and circumstances of the case, judgment and decree dated 07.11.2016, passed by the learned Family Court, Barnala, is set aside, especially on the basis of stand taken by all the respondents. Appeal is accordingly disposed of.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

May 25, 2023.

s.khan

Whether speaking/reasoned : Yes/No.

Whether reportable : Yes/No.