

Neutral Citation No. 2023:PHHC:127331-DB

Fakir Chand Vs. Meetu

Present: Mr. Karan Bhardwaj, Advocate
for the applicant-respondent.

Mr. Deepak Aggarwal, Advocate
for the non-applicant/appellant.

This common order disposes of two applications as filed by the applicant-Meetu, who was respondent in FAO-M-118-2017 which had been allowed vide judgment dated 06.05.2022 passed by this Court.

The applicant has prayed for reviewing the judgment dated 06.05.2022 by submitting that the findings given in the said judgment are wrong and an error apparent on the face of record has crept that has necessitated allowing of this application. It has been pointed out by the applicant that in the judgment dated 06.05.2022, this court had observed that the complaint filed by the applicant against her husband and mother-in-law under Sections 406, 498-A and 109 of IPC was false and had been dismissed and had granted a decree of divorce to the respondent by holding that the applicant was proved to have committed act of cruelty upon him. It is submitted that in fact the dismissal of the abovesaid complaint had been challenged by the applicant by filing an appeal which too was dismissed and then by filing a revision before the High Court that was dismissed as withdrawn in view of a compromise but it could not be construed

therefrom that the allegations levelled in the complaint were false and amounted to committing acts of cruelty upon the respondent. It is further submitted that in the judgment dated 06.05.2022 that was passed ex parte against her, it had been ignored that it was the respondent, who was proved to have committed cruelty upon her and the issue of cruelty had already been decided and had attained finality in pursuance of a judgment passed in a petition filed under Section 9 of the Hindu Marriage Act, 1955 seeking restitution of conjugal rights. It is therefore, prayed that the findings as given in judgment dated 06.05.2022 are subject to review and it has been prayed accordingly. CM-7823-CII-2022 has been filed by the applicant for granting her permission to produce, by way of additional evidence, judgment passed in civil suit filed against her by the respondent Fakir Chand and his mother and copy of judgment passed in petition filed in restitution of conjugal rights as well as copy of some drafts. It is submitted that these documents could not be produced by her earlier as her counsel could not appear before this Court at the time of passing of judgment dated 06.05.2022.

The respondent has orally contested these applications through his counsel who has submitted that the applications do not deserve to be allowed.

We have heard learned counsel for both the parties and have perused the record.

So far as the prayer of the applicant for allowing her to

produce copies of judgments and demand drafts is concerned, it is not her case that the documents sought to be produced, was not within her knowledge or could not be produced despite exercise of the due diligence. These documents are sought to be produced by way of additional evidence when the FAO has already been decided and there is no occasion to look into these documents. Therefore, we see no reason to allow the prayer made by the applicant in this regard. Hence, the application i.e. CM-7823-CII-2022 is ordered to be dismissed.

So far as her prayer for reviewing the judgment dated 06.05.2022 is concerned, Order 47 Rule 1 of the Code of Civil Procedure deals with the same and as per this provision, any person who on discovery of some new and important matter or evidence which, after the exercise of due diligence or due to his having no knowledge, that could not be produced by him/her at the time of passing of decree or order or on account of some mistake or error apparent on the face of record or for any other sufficient reason, can obtain a review of the decree passed or order made. In this case, though the applicant has submitted that there were errors apparent on the face of record of the judgment dated 06.05.2022 however, there is no force in the plea so taken. The judgment dated 06.05.2022 had been passed when the applicant or her counsel had failed to appear in the Court and after hearing learned counsel for the present respondent the order had been passed considering the material available on record, which justified the reasons for giving findings in favour of the

respondent. As such, no case for reviewing the order dated 06.05.2022 has been made out. Accordingly, the application for review also stands dismissed.

**(RITU BAHRI)
JUDGE**

**(MANISHA BATRA)
JUDGE**

22.09.2023
pooja saini