

CR-5724-2023

-1-

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

133

CR-5724-2023

Date of decision:- 19.10.2023

Pooja

....Petitioner

Versus

Naresh and Anr.

...Respondents

CORAM:- HON'BLE MS. JUSTICE AMARJOT BHATTI

Present:- Mr. Tanvir Singh Attariwala, Advocate for the petitioner.

AMARJOT BHATTI, J.

1. The petitioner has filed the present civil revision under Article 227 of the Constitution of India for setting aside the impugned order dated 13.04.2023 (Annexure P-1) passed by the Court of learned Principal Judge, Family Court-cum-Camp Court, Hansi wherein the application for setting aside the *ex parte* proceedings order dated 25.08.2022 (Annexure P-4) has been dismissed in the petition filed by the respondent No.1-husband under Section 13 of Hindu Marriage Act bearing case No.DMC/427/2020.

2. Learned counsel for the petitioner has placed on record copy of impugned order dated 13.04.2023 (Annexure P-1) whereby the application was declined for setting aside *ex parte* order dated 25.08.2022. The copy of divorce petition is Annexure P-2. It is pointed out that the present petitioner was served for 25.08.2022 but she could not appear due to her personal reasons and was proceed against *ex parte*. Copy of zimni order dated 25.08.2022 is Annexure P-4. Thereafter, she filed application

(Annexure P-5) for setting aside the *ex parte* order referred above but the same has been declined by passing impugned order dated 13.04.2023 (Annexure P-1). It is prayed that the petitioner is a poor lady who has filed this case with the help of legal aid counsel. She could not appear in the Court due to her illness and thereafter, there was death of a relative. The stand taken by the petitioner was not sympathetically considered by the Principal Judge, Family Court-cum-Camp Court, Hansi and her application was rejected. Now the case is fixed for arguments before the Family Court for 21.12.2023. It is prayed that lenient view may be taken and by accepting the present civil revision, she may be permitted to file her written reply on the next date of hearing.

3. I have considered the arguments and have gone through the record. As per the record, Naresh-respondent No.1 has filed petition under Section 13 of Hindu Marriage Act against the present petitioner-Pooja and one Sonu is also arrayed as co-respondent. It is matter of record that the present petitioner was served for 25.08.2022 and due to her non-appearance, she was proceeded against *ex parte*. The present petitioner filed application dated 08.12.2022 for setting aside the *ex parte* order. Copy of application is Annexure P-5 and the said application was declined by passing the impugned order. In the case in hand, Naresh is seeking divorce from his wife Pooja under Section 13 of Hindu Marriage Act. The copy of divorce petition indicates that she is mother of two children. She had filed application for setting aside *ex parte* order within reasonable time. However, without considering the nature of litigation and the rights of the parties involved in this case, the said application for setting aside *ex*

CR-5724-2023

-3-

parte order dated 25.08.2022 was rejected. As a result, the present civil revision has been filed. The said application was filed within a reasonable time period, therefore, in my opinion, the Principal Judge, Family Court should have given an opportunity to the present petitioner to contest the litigation. It is always in the interest of justice that the case is decided on merits after giving opportunity to both the parties to present their case. Therefore, I find merits in the civil revision filed by the present petitioner and the impugned order dated 13.04.2023 (Annexure P-1) and order vide which she was proceeded against *ex parte* dated 25.08.2022 (Annexure P-4) are accordingly set aside with the direction to the present petitioner to appear before the Court on the next date of hearing for filing of her written statement and the learned Family Court is directed to proceed as per law.

Accordingly, the civil revision stands disposed of.

Pending application(s), if any, shall also stand disposed of.

19.10.2023

Sunil Devi

(AMARJOT BHATTI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No