

CM-6842-CII-2024 IN/AND
FAO-1753-2023 (O&M)

108

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CM-6842-CII-2024 IN/AND
FAO-1753-2023 (O&M)
Date of decision: April 24, 2024

Abhishek Narula

....Applicant-appellant

versus

Savita Kumari

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE HARSH BUNGER**

Present:- Abhishek Narula, applicant-appellant in person.
(presence marked through video-conferencing)
along with her mother/Special Power of Attorney, namely
Ms. Veena Kumari Narula, and father also present in the Court.

SUDHIR SINGH, J. (ORAL)

CM-6842-CII-2024

Application herein is to decide the main appeal in a time bound manner, which is slated for hearing on 29.04.2024.

2. The applicant-appellant who is appearing through Video-Conferencing has orally submitted that instead of rendering piecemeal decision on the application vis-à-vis main appeal, the main appeal itself be heard. Considering the said prayer, the main case is taken on Board for hearing today itself. Next date fixed in main case i.e., 29.04.2024, stands cancelled.

3. Application stands disposed of, accordingly. Registry to do the needful.

Main case (O&M)

Appeal herein is for setting aside the impugned judgment/ decree dated 14.03.2023 whereby, petition filed by the respondent/wife under Section 13 of the Hindu Marriage Act, 1955 (for short 'HM Act'), seeking dissolution of

marriage with appellant/husband, had been decreed *ex parte*, and marriage between the parties was dissolved by a decree of divorce on the ground of cruelty.

2. Perusal of the record shows that earlier, appeal in question was preferred through an Advocate namely M.M. Pandey. Vide order dated 17.08.2023, notice of motion was issued, subject to deposit of an amount of Rs.25,000/- towards litigation expenses with the Registry of this Court, payable to the respondent, on her appearance. In compliance thereto, appellant is stated to have already deposited the aforesaid litigation expenses with the Registry of this Court. Thereafter, vide order dated 22.09.2023, upon an application preferred by applicant-appellant, this Court ordered the respondent to be served by way of publication in two local newspapers. Pursuant thereto, it was reported that notice by way of publication had been made; accordingly, the respondent was proceeded *ex parte*, as observed in the order dated 15.12.2023.

2.1. Thereafter, applicant-appellant preferred two applications i.e., CMs-22935-36-CII-2023 for submitting No Objection Certificate by the earlier counsel as well as permission to pursue the main appeal through Special Power of Attorney.

2.2. In view of the above, **CMs-22935-36-CII-2023** are disposed of, and appellant is permitted to pursue the case through his mother/Special Power of Attorney namely Ms. Veena Kumari Narula.

3. After arguing for sometime, Special Power of Attorney of applicant-appellant seeks to withdraw the present appeal with liberty to move an application, if so advised, under Order IX Rule 13 of the Code of Civil Procedure, 1973 (for short 'CPC'), before the Court of learned Principal Judge, Family Court, Panchkula, seeking setting aside of the *ex-parte* judgment and decree dated 14.03.2023, passed by the said Court. He also submits that since the appellant is

withdrawing main appeal itself, accordingly appropriate directions be issued that the application under Order IX Rule 13 of the CPC to be filed by the appellant, be decided in a time bound manner. It is also submitted that appropriate direction be also issued to the Registry of this Court to return the amount of litigation expenses of Rs.25,000/- already deposited with it, by the applicant-appellant.

4. In view of the aforesaid stand of the appellant, the present appeal is dismissed as withdrawn with liberty aforesaid. In case, the appellant files an application under Order IX Rule 13 of the CPC seeking setting aside of the *ex parte* judgment and decree dated 14.03.2023, the concerned Court shall consider and make its earnest endeavour to decide the same, in accordance with law, expeditiously and preferably within a period of 09 months from the date of filing of said application.

5. Registry of this Court is also directed to release the amount of litigation expenses of Rs.25,000/- deposited with it, in favour of the appellant/Special Power of Attorney.

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

(SUDHIR SINGH)
JUDGE

(HARSH BUNGER)
JUDGE

April 24, 2024

mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No