

2024:PHHC:109420

156 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-4335-2024

Decided on:-23.08.2024

Ritu Saundh

....Petitioner..

vs.

Gursimrat Saundh

....Respondent.

CORAM: HON'BLE MR. JUSTICE HARKESH MANUJAPresent: Mr. Saurabh Kapoor, Advocate,
for the petitioner.

HARKESH MANUJA J. (Oral)

1. By way of present revision petition filed under Article 227 of the Constitution of India, prayer has been made for issuance of direction to the trial Court to decide the application bearing No.CM/318/2017, filed by the petitioner-wife, invoking Order 9 Rule 13 CPC, for setting aside ex-parte judgment and decree dated 06.10.2014 passed by the Court of Additional District Judge, Jalandhar, expeditiously preferably within two months.

2. Briefly stating, marriage between the petitioner and respondent took place on 15.11.1992 and out of the said wedlock two children were born on 24.02.1994 and 09.10.1996. As per the cause set-up, though both petitioner and respondent were living at the same place as husband and wife but, the respondent-husband concocted a false story that petitioner-wife was residing separately from her and on the basis thereupon, he got an ex-parte divorce vide judgment and decree dated 06.10.2014. Thereafter, on coming to know about it, petitioner moved an application dated 28.04.2017, under

Order 9 Rule 13 CPC, for setting aside the same, however, the respondent-husband despite service did not appear and was proceeded against ex-parte vide order dated 14.07.2017. Later, on 03.10.2017, respondent-husband appeared and filed application for setting aside ex-parte order, which came to be allowed on 16.10.2017. Issues were framed on 16.11.2017.

3. On 21.01.2020, petitioner filed application for striking off defence of the respondent-husband on account of non-payment of maintenance. Thereafter, Covid-19 situation ensued and matter was adjourned for payment of arrears as well as for reply to the application. The petitioner-wife closed her evidence on 16.02.2023. Reply to the application for striking of defence was filed by the respondent-husband on 04.09.2023 and arguments were addressed, but further payment was not made and he kept on seeking adjournments. Subsequently, the petitioner-wife moved another application for striking off defence on 24.01.2024, as neither the evidence was being concluded by respondent-husband; nor payment towards arrears was made. The reply to the said application was filed on 27.02.2024 but again the case was adjourned for arguments and the same is still pending adjudication.

4. Learned counsel for the petitioner submits that the application (Annexure P-2) is pending for the last 7 years due to one or the other excuse i.e. either the payment of maintenance or filing of reply or conclusion of evidence; but till date the same has not been decided by the learned Family Court, thus, he prays for issuance of direction to the Family Court to decide the same expeditiously within a time bound manner.

5. I have heard learned counsel for the petitioner and gone through the paper book.

6. Perusal of paper book shows that the application (Annexure P-2) filed at the instance of petitioner-wife, for setting aside of the ex-parte judgment and decree dated 06.10.2014, is pending for the last 07 years and still the same is at the stage of filing of reply or conclusion of evidence, on behalf of respondent-husband.
7. Considering the aforesaid facts, the present petition is disposed of with a request to the Family Court, Jalandhar to decide the application (Annexure P-2) expeditiously preferably within a period of two months from the date of receipt of certified copy of this order.
8. The present petition is being disposed of without issuing notice to the respondent, as the same would further delay the proceedings, besides burdening him with unnecessary costs of litigation.

23.08.2024
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(HARKESH MANUJA)
JUDGE

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