



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

FAO-1219-2024

Date of decision: 30.04.2025

UTMI DEVI

...Appellant

Versus

KARTARA

...Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Amardeep Singh, Advocate for the appellant.

Respondent (ex-parte)

SURESHWAR THAKUR, J. (ORAL)

1. One Utmi Devi filed a Hindu marriage petition, cast under Section 13 of the Hindu Marriage Act, 1955, whereby she claimed the rendition of a decree, thus annulling her marital union with the respondent therein.

2. Though, the respondent in the said petition, who is also the respondent in the instant appeal, rather evidently both during the proceedings embarked upon the Hindu marriage petition and also in the instant proceedings, thus has been proceeded against ex-parte.

3. Moreover, there is also no evidence on record suggestive, that the order rendered by the learned Family Court concerned, on 02.11.2022 whereby the respondent therein, was proceeded against ex-parte, rather was suffering from any infirmity on account of the fact, that despite no valid personal service being caused, upon the respondent therein, yet an order becoming passed on 02.11.2022, whereby the respondent therein was directed to be proceeded against ex-parte.

4. Moreover, even after the institution of the instant appeal against the decision recorded, on 31.01.2024 by the learned Family Court, whereby the Hindu marriage petition was dismissed, though an order became rendered, thus for causing personal service upon the respondent. Though, as reported by the Registry of this Court, qua valid personal service becoming effected in the instant appeal vis-a-vis the respondent. However, despite valid service being caused upon the respondent, yet the latter did not even in the instant appeal either appear personally or through an authorized counsel.

5. All the above demonstrate that the respondent was throughout unwilling to either record his personal appearance either before the learned Family Court or before this Court.

6. Be that as it may, believing the statement made today, at the bar by the learned counsel for the appellant, that for proving the averments cast in the petition (supra) by the present appellant, whereby she sought annulment of her marital union with the respondent, she had stepped into the witness box, whereby she lent ex-parte proof qua the averments cast in the petition (supra).

7. Furthermore, also believing the further statement made before this Court by the learned counsel for the appellant, that the order rendered on 02.11.2022 by the learned Family Court concerned, whereby the respondent in the Hindu marriage petition, was proceeded against ex-parte, rather became rendered prior to the stepping into the witness box of the present appellant, whereby she choose to adduced ex-parte proof in respect of the averments cast in the Hindu marriage petition.

8. The effect thereof, is that, the appellant's ex-parte adduced evidence enjoined credence being lent thereto, especially when she remained un-cross-examined by the respondent or by his counsel. As such, the

unrebutted ex-parte evidence adduced by the present appellant in proof of the averments cast in the Hindu marriage petition, thus was required to be assigned credence rather than the same becoming declared to be incredible rather on most flimsy and pretextual grounds.

9. The cumulative effect of the above, is that, the disbelievings by the learned Family Court concerned, vis-a-vis the unrebutted ex-parte evidence adduced by the appellant rather has resulted in gross injustice becoming perpetrated upon the appellant.

10. In aftermath, after allowing the instant appeal, the Hindu marriage petition is allowed and a decree of divorce is rendered in favour of the appellant. Resultantly the marital union inter se the present appellant and the respondent in the instant appeal, is declared to be annulled. Decree sheet be prepared accordingly. The impugned judgment is quashed and set aside. A copy of the judgment be sent to the Court concerned.

11. A copy of this order be also sent at the registered address of the respondent. LCR, if requisitioned, be sent back forthwith.

(SURESHWAR THAKUR)
JUDGE

30.04.2025

Ithlesh

(VIKAS SURI)
JUDGE

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