



2026:DHC:4844-DB



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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*Judgment reserved on: 16.03.2026**Judgment delivered on: 29.05.2026*

+ MAT.APP.(F.C.) 56/2024, CM APPL. 9407/2024 & CM APPL. 59355/2025

PRATIBHA VERMA

.....Appellant

Through: Ms. Amulya Dhingra, Adv.

versus

ABHISHEK KUMAR

.....Respondent

Through: Mr. Danish Aftab Chowdhury,
Adv.**CORAM:****HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MS. JUSTICE RENU BHATNAGAR****J U D G M E N T**

1. The present appeal, under Section 19 of the Family Courts Act, 1984 read with Order XLIII Rule 1(d) of the Code of Civil Procedure, 1908, assails the Order dated 11.01.2024, passed by the learned Family Court, whereby the Appellant's Application under Order IX Rule 13 of the CPC, seeking setting aside of the *ex-parte* decree and judgment dated 03.08.2022, came to be dismissed.

2. Briefly stated, the Respondent/husband had instituted a petition under Section 13(1)(i) and 13(1)(ia) of the Hindu Marriage Act, 1955, seeking dissolution of marriage on the grounds of adultery and cruelty. Notice in the said petition was issued on 07.08.2019 and was admittedly served upon the Appellant/wife on 05.09.2019. The record reveals that



the Appellant engaged a counsel, who entered appearance before the learned Family Court on 17.12.2019 and sought time for filing of written statement. The matter thereafter came up on several dates in the year 2021-22, wherein, though appearance on behalf of the Appellant continued to be marked through counsel/proxy counsel from time to time, the written statement was not filed despite repeated opportunities and imposition of costs. Eventually, owing to non-appearance on behalf of Appellant, the learned Family Court proceeded *ex-parte* against her on 06.04.2022. Thereafter, *vide* the *ex-parte* decree and judgment on 03.08.2022, the marriage between the parties was dissolved.

3. Aggrieved by such *ex-parte* judgment and decree, the Appellant filed an application under Order IX Rule 13 of the CPC on 26.09.2022, seeking recall of the same. Though opportunities were granted, the Respondent failed to file any reply to the application and his right to file a reply to the application was closed on 05.12.2023. The said application, however, came to be dismissed by the learned Family Court *vide* Impugned Order dated 11.01.2024, leading to filing of the present appeal.

4. We have heard the learned counsel for the parties and perused the material placed on record.

5. By way of the Impugned Order, the learned Family Court, while dismissing the application of the Appellant under Order IX Rule 13 of the CPC, held that the Appellant was duly served with notice and had even entered appearance through counsel, yet failed to file a written statement or participate in the proceedings despite repeated opportunities and imposition of costs. The Court has further held that the reasons put forth by the Appellant, including financial constraints and the Covid-19



situation, do not constitute *sufficient cause* for her non-appearance, particularly in view of her admitted receipt of summons and continued default even thereafter.

6. The Impugned Order is assailed by the Appellant submitting that the learned Family Court adopted an unduly technical approach while dismissing the application. It is contended that the Appellant, being a layperson with limited understanding of legal procedure, was unable to effectively contest the proceedings due to circumstances beyond her control, including disruption to normal life caused during the Covid-19 pandemic, financial hardship, and lack of proper assistance from the counsel earlier engaged by her. It is submitted that the Appellant neither deliberately avoided the proceedings nor stood to gain from her absence, and has instead suffered serious prejudice by dissolution of marriage without effective adjudication on merits. It is further submitted that matrimonial disputes should ordinarily be decided on merits rather than terminated on procedural defaults, particularly where restoration of proceedings would not cause irretrievable prejudice to the opposite party. It is pointed out that the Respondent has admittedly not remarried and any inconvenience caused can adequately be compensated by costs. He in fact even did not file any objections to recall application despite of opportunities being granted to him, ultimately leading to closure of his right to file reply.

7. The question, thus, arises for consideration before this Court is that whether the Appellant was successful in providing “*sufficient cause*” within the meaning of Order IX Rule 13 of the CPC.



8. The law governing the applications under Order IX Rule 13 of the CPC, particularly in matrimonial disputes, is well settled. The expression “*sufficient cause*” occurring therein has consistently received a liberal and justice-oriented interpretation so as to advance substantial justice rather than defeat it on technical considerations.

9. In ***Parimal v. Veena @ Bharti***, (2011) 3 SCC 545, the Supreme Court held that the expression “*sufficient cause*” should receive a liberal construction so as to advance substantial justice, and found that the test is whether the party had acted with reasonable diligence and *bona fides*.

The extracts of the relevant paragraphs are as under:

“13. “*Sufficient cause*” is an expression which has been used in a large number of statutes. The meaning of the word “sufficient” is “adequate” or “enough”, inasmuch as may be necessary to answer the purpose intended. Therefore, word “sufficient” embraces no more than that which provides a platitude which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case and duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, “sufficient cause” means that the party had not acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or the party cannot be alleged to have been “not acting diligently” or “remaining inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. (Vide *Ramlal v. Rewa Coalfields Ltd.* [AIR 1962 SC 361] , *Lonand Grampanchayat v. Ramgiri Gosavi* [AIR 1968 SC 222] , *Surinder Singh Sibia v. Vijay Kumar Sood* [(1992) 1 SCC 70 : AIR 1992 SC 1540] and *Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corpn.* [(2010) 5 SCC 459 : (2010) 2 SCC (L&S) 50 : (2010) 2 SCC (Cri) 1291 : (2010) 2 SCC (Civ) 448])

14. In *Arjun Singh v. Mohindra Kumar* [AIR 1964 SC 993] this Court observed that every good cause is a sufficient cause and



must offer an explanation for non-appearance. The only difference between a “good cause” and “sufficient cause” is that the requirement of a good cause is complied with on a lesser degree of proof than that of a “sufficient cause”. (See also Brij Indar Singh v. Kanshi Ram [(1916-17) 44 IA 218 : AIR 1917 PC 156] , Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee [AIR 1964 SC 1336] and Mata Din v. A. Narayanan [(1969) 2 SCC 770 : AIR 1970 SC 1953] .)”

10. Equally settled is the principle that matrimonial disputes deserve adjudication on merits. Proceedings involving marital status carry serious civil consequences affecting the future life, dignity, and status of parties, and therefore courts are expected to lean in favour of affording adequate opportunity unless gross negligence, deliberate abandonment, or abuse of process is evident.

11. In the present case, a perusal of the Impugned Order itself reveals that after initial service of summons, the Appellant had engaged counsel who continuously appeared before the learned Family Court on various dates. The case is, therefore, not one where the Appellant remained completely absent from the proceedings from inception. Rather, it is evident that she had entrusted the matter to counsel, who was prosecuting the proceedings on her behalf.

12. In this backdrop, the learned Family Court failed to appreciate the settled principle that a litigant should not ordinarily be penalized for the lapse, negligence, or non-diligence of counsel. The reasoning adopted in the Impugned Order that the Appellant had not initiated any complaint or disciplinary proceedings against her previous counsel also cannot be sustained. Filing of a professional complaint against an advocate is not a pre-condition for invoking jurisdiction under Order IX Rule 13 of the CPC. What the Court is required to examine is whether the explanation



furnished discloses *bona fide* circumstances constituting *sufficient cause* for non-appearance.

13. The Impugned Order reveals that the Appellant had specifically pleaded that, owing to the unprecedented disruption caused by the pandemic, she suffered severe financial hardship, displacement from Delhi, and an inability to effectively pursue the proceedings or coordinate with counsel. The Appellant had also pleaded that she was roaming here and there, sometimes in Lucknow, in search of bread and butter and was facing extreme financial distress being even unable to pay the fees of her advocate and her husband/Respondent at the same time had also caused agony to her by deserting her.

14. The record further reflects that substantial stages of the proceedings, including repeated adjournments and the eventual *ex-parte* course adopted by the learned Family Court, fell during the pandemic and the immediate post-pandemic period, when normal life, access to legal assistance and continuity of litigation stood seriously affected. In these circumstances, it was incumbent on the learned Family Court to consider that the hardship pleaded by the Appellant was neither illusory nor casual, but a direct consequence of the extraordinary situation prevailing across the country during the Covid-19 period, the impact whereof is repeatedly judicially recognized by the Courts.

15. In any event, the period during which the proceedings remained affected by the pandemic also stood excluded by judicial orders passed by the Supreme Court in ***Cognizance for extension of Limitation, in Re***, (2022) 3 SCC 117, excluding the period from 15.03.2020 till 28.02.2022 for calculation of limitation and recognizing the practical difficulties



faced by litigants nationwide, thus, the Appellant being a layperson in difficult circumstances was compelled to focus on her survival rather than the litigation going on.

16. Furthermore, the Appellant is a deserted woman who was admittedly not receiving maintenance and was compelled to sustain herself without adequate financial support. In such circumstances, the learned Family Court, therefore, ought to have adopted a liberal approach consistent with the principles of substantial justice, rather than deciding the matter *ex-parte* in circumstances demonstrating genuine hardship and inability on the part of the Appellant to effectively contest the proceedings.

17. This Court is also unable to overlook that the decree under challenge is a decree of dissolution of marriage. Such a decree has irreversible civil consequences affecting the marital status and future life of the Appellant. On the other hand, no irretrievable prejudice would be caused to the Respondent if the matter is restored for adjudication on merits, particularly when it is not the case that the Respondent has remarried in the interregnum. Any inconvenience caused can adequately be compensated by imposition of costs.

18. In the considered view of this Court, the Appellant is successful in elucidating *sufficient cause* for not participating in the proceedings, wherein she has suffered exceptional hardship and financial distress, and warranted grant of one effective opportunity so that the matrimonial dispute could be adjudicated on merits after hearing both sides.

19. In view of the aforesaid discussion, the Impugned Order dated 11.01.2024 cannot sustain and is, accordingly, set aside. Consequently,



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the *ex-parte* judgment and decree dated 03.08.2022 are also set aside.

20. The matter is remanded back to the learned Family Court for adjudication in accordance with law. The learned Family Court shall proceed with the matter and decide the same expeditiously, in accordance with law.

21. The parties shall appear before the learned Family Court on 15.07.2026.

22. The appeal, along with pending application(s), if any, stands disposed of in the aforesaid terms.

**VIVEK CHAUDHARY
(JUDGE)**

**RENU BHATNAGAR
(JUDGE)**

MAY 29, 2026/kp/tr