



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

**FAO No.1597 of 2025
Date of Decision: 08.05.2025**

Rakesh Kumar

...Appellant

Versus

Ramrati

...Respondent

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Sushil Kumar Verma, Advocate,
for the appellant.

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SANJEEV PRAKASH SHARMA J.(Oral)

This is an appeal assailing the judgment dated 07.02.2025 passed by Principal Judge, Family Court, Sirsa, whereby a decree under Section 9 of the Hindu Marriage Act, 1955 (for short, 'the Act, 1955') has been granted in favour of the respondent-wife with direction to the petitioner-husband to restore the matrimonial ties.

2. Learned counsel appearing for the appellant-husband submits that the appellant-husband has filed a Divorce Petition under Section 13 of the Act, 1955 relating to the ground of cruelty and desertion before the Court at Rajgarh, District Churu, State of Rajasthan and therefore, the present judgment passed by the Principal Judge, Family Court, Sirsa, deserves to be set-aside.

3. We are afraid that the contentions is wholly mis-conceived and it is an admitted position that the proceedings initiated by the respondent-



wife under Section 9 of the Act, 1955 were prior in time to the petition filed under Section 13 of the Act, 1955 at Rajgarh. That apart, a finding fact has arrived at to show that the respondent-wife was always ready to join the matrimonial home but was forced and thrown away from her matrimonial home. In spite thereto, while she of course registered a complaint against her in-laws, she is interested to join back her matrimonial home and restore her marriage. On the other hand, we find that the appellant-husband has taken a plea of desertion in the Divorce Petition. In view of the instant petition filed by the respondent-wife, animus deserendi is not true as against her and it is a clear case of constructive desertion on the part of the appellant-husband as against his wife (respondent) and on the said plea, Divorce Petition though pending, cannot be accepted to be sufficient ground to set-aside the present decree passed under Section 9 of the Act, 1955 as the appellant-husband would be guilty of his own acts and under Section 23 of the Act, 1955, the same would be a bar to grant a decree of divorce. We of course would not go into the said aspect and made the afore-said observations as the same would be suffice to dismiss the instant appeal and accordingly, the appeal in hand is dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

May 08, 2025
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: *Yes/No*
Whether Reportable: *Yes/No*