

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH****245****CR-895-2019 (O&M)****Date of decision: 24.03.2025****Darshan Kaur Lally****...Petitioner(s)****Vs.****Harbans Singh Lally****...Respondent(s)****CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA**

Present:- Mr. Avtar Singh Khinda, Advocate for the petitioner.

NIDHI GUPTA, J.

The present civil revision petition under Article 227 of the Constitution of India read with Section 115 of CPC, has been filed by the petitioner-wife against the order dated 20.08.2018 passed by learned Additional District Judge, Jalandhar (Annexure P-4); whereby the application under Order 9 Rule 13 read with Section 151 CPC filed by the petitioner, was dismissed.

2. Learned counsel for the petitioner submits that the impugned order could not have been passed as service was never effected upon the petitioner and the substituted service was effected on the wrong address of the petitioner. As such, the petitioner was wrongly proceeded against exparte. Therefore, the order passed by learned Additional District Judge, Jalandhar dated 20.08.2018 (Annexure P-4), dismissing the application of the petitioner under Order 9 Rule 13 read with Section 151 CPC for setting



aside exparte judgment and decree of divorce dated 21.12.2006, is unsustainable.

3. No other argument is raised on behalf of the petitioner.

4. I have heard learned counsel for the petitioner and perused the case file in great detail.

5. Perusal of the record of the case shows that the petitioner was married to the respondent on 18.07.1980. On 6.5.2006, the respondent-husband of the petitioner had filed a petition under Section 13 of the Hindu Marriage Act 1955, in which exparte divorce was granted vide judgment and decree dated 21.12.2006 (Annexure P-1). It is the case of the petitioner that she was never personally served or otherwise served in the said petition nor had any knowledge about the said proceedings or passing of the judgment and decree dated 21.12.2006. Accordingly, the petitioner had filed the present application dated 02.07.2015 under Order 9 Rule 13 read with Section 151 CPC for setting aside exparte judgment and decree dated 21.12.2006. The said application (Annexure P-3) was filed on the ground that the respondent had filed a petition of divorce by playing fraud upon the petitioner and had given her wrong address, where she was not residing at the relevant time. It was further stated that no process issued by the Court was ever received by the petitioner at the place where she was residing at the relevant time in 2006.

6. However, the above said submissions made on behalf of the petitioner are liable to be rejected in view of the following facts. First and foremost, the application for seeking setting aside the judgment and decree



dated 21.12.2006 of divorce has been filed way beyond the period of limitation. Even it was not revealed in the application as to when the petitioner discovered regarding passing of the judgment and decree dated 21.12.2006 as no date, month or year of discovery have been mentioned therein. Accordingly, learned Additional District Judge, Jalandhar had correctly held that in the absence of the necessary pleadings in this regard, the Court cannot think in favour of the petitioner that she had gained knowledge of the judgment and decree dated 21.12.2006 only in the year 2015. In fact, it has been admitted by the petitioner that in the proceedings under Section 13 of the Hindu Marriage Act before the learned Civil Court, the respondent-husband had got effected substituted service by way of publication made in the newspaper. Thus, learned counsel for the petitioner is unable to convince this Court that any ground is made out to interfere in the impugned order.

7. Furthermore, it is very relevant to note that, the petitioner is a resident of Canada and is being represented through her Special Power of Attorney holder/her brother namely Surjit Singh Sohal. Surjit Singh Sohal had appeared before the learned District Judge, Jalandhar as PW1, and had produced the photocopy of the Special Power of Attorney as Ex.P1 and photocopy of Rent Agreement as Ex.P2. As per the said Power of Attorney (Ex.P1), no power was given to Surjit Singh Sohal to pursue the matrimonial dispute on behalf of the executant/petitioner. Thus, PW1 had failed to prove that he had been authorized by the petitioner to file the present application under Order 9 Rule 13 read with Section 151 CPC on her behalf.



Moreover, PW1 had failed to produce the original Power of Attorney and had only produced the photostat copy of Power of Attorney (Ex.P1).

8. In view of the above facts, no ground is made out to interfere in the impugned order dated 20.08.2018. Hence, the present civil revision petition is **dismissed**.

9. Pending application, if any, stands disposed of.

24.03.2025

Divyanshi

**(NIDHI GUPTA)
JUDGE**

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