
Jagdish Kaur Vs Raghbir Singh

First Appeal From Order No. 184-M of 1988

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Feb. 17, 1995

Acts Referred:

Hindu Marriage Act, 1955 "Section 9

Citation: (1995) 110 PLR 658

Hon'ble Judges: Sarojnei Saksena, J

Bench: Single Bench

Advocate: Abha Rathore, for the Appellant; Gurcharan Singh, for the Respondent

Final Decision: Dismissed

Judgement

Sarojnei Saksena, J.

Appellant-wife has come up in appeal u/s 28 of the Hindu Marriage Act (in short the "Act") against the judgment and

decree dated 24.11.1988 passed by Shri J.K. Sud, Additional District Judge, Ambala allowing the respondent husband's petition filed u/s 9 of the

Act.

2. Briefly stated the facts are that the parties were married on 20.10.1985. They lived together at Patiala. Marriage was consummated and

appellant gave birth to a son. Respondent-husband is employed in Oriental Bank of Commerce. After sometime parties relations became strained.

On appellant wife's desire, respondent husband started living separately. In February 1986 appellant wife went to her parental home where she fell

ill. On 14.2.1986 she was admitted in the Hospital and her pregnancy could be saved. Appellant's mother wanted the respondent to reside with

her at Ambala as their resident son-in-law to which he refused to accede. Thereafter trouble between the two started. On 14.3.1986 the appellant

went to her parental home taking away all her jewellery and belongings. She refused to come back to the matrimonial home despite attempts made

by the husband and his father. He took Panchayat also, but in vain. On 24.4.1986 she gave birth to a son. Thereafter also the respondent -

husband made many attempts for reconciliation, but she declined to join him. Hence the petition.

3. The appellant wife denied all the allegations of the petition. She pleaded inter alia that her husband is having some affairs with his elder brother's

wife. She does not want that she should be rehabilitated. She always maltreated her. She was turned out of the matrimonial home by his Bhabhi.

Since then she is living in her parental home. Her husband never made any effort to call her back though she made many attempts for her

rehabilitation. Ultimately, she was forced to file a petition u/s 125 Cr. P.C. for her maintenance. Respondent-husband filed this petition as a

counter-blast to that.

4. On appraisal of parties' evidence, the trial Court held that the appellant-wife has withdrawn from the society of the respondent-husband without

just and lawful excuse. Hence a decree of restitution of conjugal rights was passed in his favour.

5. On 13.1.1995 the parties reconciled and they agreed to live together for a month on trial basis. The respondent-husband agreed to take her

from the Court itself along with him. The appellant-wife was directed to bring her son and her belongings from Ambala and to go with husband

from the Court. Their statements were recorded.

6. Today appellant-wife's respondent-husband's and his father's statements were recorded. From their statements, it is evident that from

13/20.1.1995 appellant- wife is residing in her matrimonial home, but respondent-husband is not residing with her in that house. Since 13.1.1995

respondent is residing at Bhiwanigarh at the place of his posting. Two and Three times he has come to his father's house at Patiala. According to

him, he stayed with his neighbour. That shows his conduct. He is not willing to rehabilitate her though she has not only expressed her willingness to

rejoin him, but has actually gone and is residing in her matrimonial home since January, 1995. Thus she has complied with the decree passed u/s 9

of the Act. In view thereof, the appellant's learned Counsel contended that since the appellant has complied with the decree, she has gone to

reside in her matrimonial home, her appeal has become infructuous.

7. In view of the above circumstances of the case, the appeal is dismissed as infructuous.