

HIGH COURT OF MADHYA PRADESH: BENCH AT INDORE
M.P.No.4222/2018
(Smt. Komal Vs. Kashish Kumar)
Indore, Dated: 15.11.2018

Shri Chetan Joshi, learned counsel for the petitioner.

Shri Amit Bhatia, learned counsel for the respondent.

The present petition has been filed by the petitioner-wife to restore her right to contest the case.

A divorce petition was filed before the Family Court by the respondent under the relevant provisions of the Hindu Marriage Act. Notice was issued to the petitioner. In that case she was supposed to appear on 10.04.2018. However, on account of alleged illness, she could not appear before the Court. Thereafter, the Court had listed the case on 19.04.2018. Again on the non-appearance of the petitioner, the Court decided to proceed ex parte against the petitioner. On 14.05.2018 the petitioner preferred an application under Order IX Rule VII of the CPC and the learned trial Court fixed the date on 11.07.2018, but on that date also non one appeared on behalf of the petitioner, on account of which the application was also dismissed. Again another application was moved by the petitioner under Order IX Rule VII of CPC and that has been dismissed by the impugned order dated 10.08.2018.

The order of the learned Court below is elaborate giving reasons as to why the earlier applications were dismissed. On page 17 of the petition in the last para of the order, the Court has

observed that certain aspersions were cast by the petitioner on the learned Court below.

However looking to the fact that the petitioner is a lady and prosecuting the case having travelled from Ujjain to Indore, in the interest of justice, the petition is allowed by imposing cost on the petitioner. The learned Court below shall restore her right to contest the case upon her depositing Rs.2,000/- as cost in favour of the respondent and cost of Rs.2,000/- to be deposited into the Advocate Welfare Fund on account of the aspersions cast on the learned Court below.

With the aforesaid observations the petition stands disposed of.

(ATUL SREEDHARAN)
JUDGE

RJ