

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CMPMO No.447 of 2025****Decided on: 27.11.2025**

Anil Chauhan

... Petitioner

Versus

Smt. Babli

... Respondent

Coram***Hon'ble Mr. Justice Ajay Mohan Goel, Judge.*****Whether approved for reporting?¹**

For the petitioner : Mr. Vinod Chauhan, Advocate.

For the respondent : M/s Surinder K. Saklani and Virender Chauhan, Advocates.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has assailed order dated 17.06.2025 (Annexure P-4), passed by the learned Court below, in terms whereof, the application filed by the petitioner under Order 9, Rule 7 of the Civil Procedure Code for setting aside *ex parte* order has been dismissed.

2. The petitioner was proceeded against *ex parte* on 26.06.2024. It appears that when the case was listed on 26.06.2024, the learned Counsel who was engaged by the petitioner appeared and submitted before the Court that the party had engaged some other Counsel and he was not to represent the present petitioner. As thereafter, none appeared for the present petitioner, he was

¹ Whether reporters of the local papers may be allowed to see the judgment?



proceeded as *ex parte* by the learned Court below which was dealing with the proceedings filed against the petitioner under Section 13 of the Hindu Marriage Act. The application, which was filed for recalling this order after one year of the passing of the *ex parte* order, has been rejected by the learned Court below in terms of order dated 17.06.2025.

3. Having heard learned Counsel for the parties and having perused the order in issue, though this Court has no hesitation in observing that the findings returned therein, in terms whereof, the application has been rejected, do not call for any interference. But, in the interest of justice and taking into consideration the fact that the dispute is between husband and wife, one opportunity as prayed for, is granted to the present petitioner to lead evidence, i.e. the stage at which he was proceeded as *ex parte*, but the same will on self responsibility of the petitioner. No Court assistance shall be rendered to him in this regard and it of course will be subject to payment of costs of Rs.20,000/- to be paid by the petitioner to the respondent. The parties through Counsel are directed to appear before the learned Court below on **15.12.2025**. On the said date, if costs of Rs.20,000/- is paid by the petitioner to the respondent herein who was the petitioner before the learned Court below, then



the learned Court below shall permit the petitioner to join the proceedings by recalling the *ex parte* order and shall give one opportunity to the present petitioner to lead evidence in defence that too on self responsibility. If the cost is not paid by the petitioner to the respondent herein on the said date before the learned Court below, this order will lose its efficacy. If after payment of costs and grant of opportunity, no evidence is led by the petitioner, then no further opportunity in this regard shall be granted.

4. With these observations, the petition stands disposed of. Interim order, if any, stands vacated. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

November 27, 2025
(Rishi)