

**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

D.B. Civil Miscellaneous Appeal No. 3341/2025
CNR: RJHC010962212025
URN: CMA / 7946U / 2025

Ramlal Regar S/o Hokam Lal Regar, Aged About 51 Years,
Regaro Ka Mohalla, Mandal, District Bhilwara (Rajasthan).

----Appellant

Versus

Smt. Lalita Regar D/o Bhanwar Lal Regar, Aged About 45 Years,
W/o Ramlal Regar R/o Regaro Ka Mohalla, Mandal, District
Bhilwara, At Present - Teacher, Office Of District Education
Officer, Beawar, District Beawar (Rajasthan).

----Respondent

For Appellant(s)	:	Mr. Nikhil Ajmera.
For Respondent(s)	:	None Present.

HON'BLE MR. JUSTICE MUNNURI LAXMAN
HON'BLE MR. JUSTICE ANUROOP SINGHI
Order

16/07/2026

1. Despite service of notice, nobody is present on behalf of the respondent-wife.
2. Heard the learned counsel appearing for the appellant. The case has been taken up for final disposal at the admission stage.
3. The challenge in the present appeal is to the order passed by the court below whereby the ex-parte decree passed in favour of the appellant-husband was set aside.
4. The appellant-husband was the applicant before the Family Court. The application under Section 25 of the Hindu Marriage Act was filed by the appellant-husband against the respondent-wife. The respondent-wife is working as a teacher.
5. The facts disclose that in the application for maintenance, the respondent-wife was served with the notice. However, she could not appear before the Court below and as a result, her defence was closed on 18.12.2023 and finally, the application filed

by the appellant-husband was allowed ex-parte on 15.02.2024 whereunder the Court below granted permanent alimony of Rs. 8,000/- per month.

6. When this ex-parte decree was put in execution and when the notice of the execution petition was served upon the respondent-wife then she realized that the ex-parte decree was passed against her on the application of the appellant-husband. She then made an application for getting a copy of the ex-parte decree and thereafter, she moved an application to condone the delay along with the application for setting aside the ex-parte decree.

7. The Court below heard both the applications together and proceeded to allow the application of the respondent-wife by imposing a cost of Rs. 5,000/-. The ex-parte decree was set aside and the matter was restored to its number vide its order dated 11.09.2025.

8. Aggrieved by the order aforesaid, the appellant-husband has preferred the present Civil Misc. Appeal.

9. The learned counsel appearing for the appellant-husband submits that while allowing the application of the respondent-wife, the Court below has failed to consider the averments and the reasons explained by the respondent-wife for setting aside the ex-parte decree. According to him, there are false averments with regard to knowledge of the ex-parte decree. It is also submitted that the respondent-wife consciously appeared in the execution proceedings, however, in order to avoid payment of maintenance, the respondent-wife claimed that she was not aware of the ex-parte decree and the fact of passing of the ex-parte decree came to her knowledge only in the month of January, 2025. Therefore,

the falsity of the respondent-wife is exposed and the application for setting aside the ex-parte decree was wrongly allowed by the Court below which requires interference by this Court.

10. We have gone through the entire genesis of the dispute. The appellant-husband appears to be a practicing Advocate and he moved the application for grant of permanent alimony under Section 25 of the Hindu Marriage Act. The genesis and foundation for filing the aforesaid application was that the appellant-husband was deserted by the respondent-wife and, therefore, the appellant-husband was made to do the household works like, cooking and washing clothes. As he has no means of earning, the appellant-husband was required to get some money to maintain himself.

11. There is no mention in the ex-parte decree as to the financial incapability of the appellant-husband. The appellant-husband has also not filed any affidavit disclosing his assets and earnings. The appellant-husband may be right in contending that the averment taken by the respondent-wife about knowledge of the ex-parte decree in the month of January, 2025 is wrong when there is sufficient evidence that the respondent-wife appeared several times in the main proceedings prior to appearing in the execution proceedings.

12. The appellant being the husband of the respondent-wife, he put the ex-parte decree in execution only in order to get the sum of Rs. 8,000/-. By such execution, it cannot be said that the respondent-wife was aware of the ex-parte decree as the Advocate was not allowed to represent the case. The petition does not reflect the financial condition of the appellant-husband. However,

without taking into consideration the status of the appellant-husband, the learned Judge has assumed that the appellant-husband has no financial capacity to maintain himself.

13. In the said background of passing of the ex-parte decree against the respondent-wife, this Court feels that the application filed under Section 25 of the Hindu Marriage Act by the appellant-husband requires fresh consideration, without going into the technicalities of law, which enables the Court to render fair justice to the parties. Though there are contradictions in the averments taken by the respondent-wife while explaining the delay, the facts pleaded by the appellant-husband require fair adjudication on merits and, therefore, we do not find any ground to interfere in the impugned order.

14. In the result, the present Civil Misc. Appeal filed by the appellant-husband is ***dismissed***.

15. However, the observations made by this Court while dealing with the present appeal shall not come in the way of the appellant-husband during the fair adjudication of the application seeking permanent alimony/interim maintenance.

16. All the pending applications, if any, shall stand disposed of.

(ANUROOP SINGHI),J

(MUNNURI LAXMAN),J