

Court No. - 39

Case :- FIRST APPEAL No. - 1181 of 2023

Appellant :- Shreshtha Srivastava

Respondent :- Akarsh Deepak

Counsel for Appellant :- Pankaj Srivastava, Archana Srivastava

Hon'ble Saumitra Dayal Singh, J.

Hon'ble Syed Qamar Hasan Rizvi, J.

1. Heard Ms. Archana Srivastava, learned counsel for the appellant and Sri Shrijan Malhotra, learned counsel appearing for the respondent

2. Present appeal has been filed under Section 19 of the Family Courts Act, 1984 arising from the order dated 25.09.2023 passed by the learned Additional Principal Judge, Family Court-2, Allahabad, whereby the learned court below has rejected the application moved by the parties under Section 13(B)(2) of Hindu Marriage Act, 1955. Thus, a waiver of six months' mandatory period sought by the parties has been rejected.

3. Having heard the learned counsel for parties and have perused the record, it transpires that the marriage between the parties had been solemnized on 03.07.2022. They have been living separately since 16.08.2022. More than six months thereafter, they instituted a joint petition under Section 13(B) of Hindu Marriage Act, 1955 (herein referred to as the Act), seeking to dissolve their marriage. That petition was supported by an application seeking waiver of cooling period.

4. With respect to the waiver sought, it has been disclosed that all efforts of mediation had failed in as much as the family members on both sides had tried to help the parties in dispute to resolve their matrimonial discord, however, those efforts failed. Presently, mediation attempted by the learned court below has also failed on

07.10.2023. It has been disclosed that there are no children born from the marriage and the parties had cohabited practically for one month only. During that period, they remained in dispute.

5. At last, it has been pointed out that the present appellant has found a better match for herself and that she wants to give her life a second chance. To that the respondent has no objection.

6. In such facts, we find that though the marriage is recent, the parties have travelled beyond the point of reconciliation. The educational qualification of the appellant is disclosed to be M.Com. and the respondent is law-graduate. In any case, they are disclosed to be well educated to understand their best interest.

7. Thus, we find that the conditions prescribed by the Hon'ble Supreme Court in **Amardeep Singh Vs. Harveen Kaur (2017) 8 SCC 746**, were substantially fulfilled. Continuance of such a marriage would only prolong the agony of the parties. Such a course, if adopted, may never be conducive to interest of the parties nor it may serve any good to the society in general. The marriage which may have turned dead, serves no purpose.

8. Accordingly, the appeal is **allowed**. The order dated 25.09.2023 is set aside.

9. The period of cooling is waived.

10. Let parties appear before the learned court below along with copy of this order.

11. The learned court below may hear and decide the application filed under Section 13(B)(2) without causing any further delay.

Order Date :- 30.10.2023/Abhishek Gupta

(Syed Qamar Hasan Rizvi,J.) (Saumitra Dayal Singh,J.)