

Court No. - 21

Case :- HABEAS CORPUS WRIT PETITION No. - 281 of 2023

Petitioner :- Smt. Swati Srivastava Thru. Her Husband Arvind Kumar Srivastava And Another

Respondent :- State Of U.P. Thru. Prin. Secy. Home Lko. And 6 Others

Counsel for Petitioner :- O.P. Tiwari

Counsel for Respondent :- G.A., Pramod Kumar Pandey

Hon'ble Neeraj Tiwari, J.

1. Heard learned counsel for the petitioners, Sri Alok Kumar Tiwari, learned A.G.A. for the respondent Nos. 1 to 4 and Sri Pramod Kumar Pandey, learned counsel for the respondent Nos. 5 to 7 and also appearing for detinue Smt. Swati Srivastava and Master Anant.

2. Though there is no order of the Court for personal appearance, but Sri Arvind Kumar Srivastava, husband and Smt. Swati Srivastava (corpus) are present before the Court today and are duly identified by their respective counsel, namely, Sri O.P. Tiwari and Sri Pramod Kumar Pandey. Their attendance has also been recorded on the order sheet, duly verified by their respective counsel.

3. Smt. Swati Srivastava has submitted before the Court that she is living separately from her husband, Sri Arvind Kumar Srivastava and does not want to live with him as wife. She is also willing to file divorce petition against him.

4. Similarly, Sri Arvind Kumar Srivastava submitted before the Court that, if Smt. Swati Srivastava is not willing to live with him, he is also ready to file divorce petition against her under Section 13 of the Hindu Marriage Act, 1955(hereinafter, referred to as, 'Act, 1955').

5. After discussion between the parties, it is agreed that they would file joint petition for divorce under Section 13B of the Act, 1955 before the Family Court, Kanpur Nagar within a month from today.

6. Under such facts of the case, nothing remains to be decided in the present habeas corpus petition.

7. Accordingly, present petition is **dismissed**.

8. However, Sri Arvind Kumar Srivastava and Smt. Swati Srivastava are at liberty to file joint petition for divorce under Section 13B of the Act, 1955 before the Family Court, Kanpur Nagar.

9. If any such divorce petition is filed by Sri Arvind Kumar Srivastava and Smt. Swati Srivastava, Family Court is directed to decide the same at the earliest considering the pronouncement made by Hon'ble Apex Court from time to time in the matter of waiving of the cooling period.

Order Date :- 18.10.2023

ADY