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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-M-353-2015 (O&M)

Date of decision: September 06, 2024

Arvind Kumar

....Appellant

versus

Anu Sharma

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH
HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Appellant/ husband present in person with
Mr. J.S. Kang, Advocate,
Mr. Sushant Kareer, Advocate.

Respondent/ wife present in person with
Mr. Simranpreet Singh, Advocate for
Mr. Sandeep Sharma, Advocate.

SUDHIR SINGH, J. (ORAL)

CM-5481-CII-2024

Application herein is for preponing the next date of hearing i.e.,
13.05.2024 fixed in CM-11886-CII-2023 in FAO-M-353-2015.

2. Since CM-11886-CII-2023 in FAO-M-353-2015 is listed for hearing
today itself, therefore, instant application has become infructuous and is disposed
of, accordingly.

CM-11886-CII-2023

Application herein is for permission to convert main appeal into a
petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act')
for grant of divorce by mutual consent, in view of compromise/ settlement dated
25.04.2023.

FAO-M-353-2015 (O&M)

2. Learned counsel for the applicant-appellant submits that during pendency of the appeal, on request of the parties, the matter was referred to the Mediation and Conciliation Centre of this Court, vide orders dated 24.02.2022 and 20.03.2023. Accordingly, parties have amicably settled the matter by way of settlement agreement dated 25.04.2023 and the same is appended as Annexure A-1 with CM-11886-CII-2023. They have decided to part ways on the terms and conditions contained in the said settlement/compromise.

3. For the reasons stated in application, same is allowed. Settlement agreement dated 25.04.2023 (Annexure A-1) is taken on record. Main appeal is ordered to be treated as petition under Section 13-B of the Act.

Main case (O&M)

Vide judgment and decree dated 28.05.2015 passed by the learned Additional District Judge, Ludhiana, the petition, under Section 13 of the Act filed by the appellant/ husband seeking dissolution of marriage between the parties, was dismissed.

2. Learned counsels for the parties submit that marriage between the parties was solemnized on 25.08.2002 according to Hindu rites and ceremonies, and out of the said wedlock, one male child was born, on 06.09.2003.

3. Learned counsels for the parties further submit that the petition, under Section 13 of the Act filed by the appellant/ husband seeking dissolution of marriage, was dismissed.

3.1. Learned counsels submit that during pendency of the appeal herein, parties have amicably settled the matter by way of settlement dated 25.04.2023 (Annexure A-1), and the same has been placed on record by way of CM-11886-CII-2023. They have decided to part ways on the terms and conditions contained in the said settlement/compromise.

4. The appellant has filed an application i.e., CM-11886-CII-2023 seeking permission for converting main appeal into a petition under Section 13-B of the Act, and the same has been allowed, as aforesaid. Learned counsel for the appellant submits that he has also filed joint affidavit of the parties by way of another application, but the same has not been listed so far. However, he tenders copy of joint affidavit of the parties, in the Court, which is taken on record and marked as 'A'.

5. From a bare perusal of the record, it appears that the parties have been living separately for more than 12 years. Learned counsels for the parties submit that settlement agreement has been arrived at between the parties on 25.04.2023 before the Mediation and Conciliation Centre of this Court. They pray for waiving off the cooling period.

6. Considering the factum of compromise/settlement between the parties, the cooling/ statutory period of 06 months is hereby waived off, as prayed for in the aforesaid CM-7174-CII-2024, and accordingly, the same is allowed.

7. The relevant of terms and conditions as contained in the settlement/compromise dated 25.04.2023 (Annexure A-1) arrived at between the parties, would read as under:-

“6. The following settlement has been arrived at between the parties hereto:

a) The first party undertakes to pay one time lump-sum maintenance of Rs.16,06,000/- (Rupees Sixteen Lacs and Six Thousand only) to the second party (wife). This amount is towards the permanent alimony of the second party covering her entire past, present and future maintenance allowances. The second party would not claim anything from the property of the first party or his family members for all times to come. This amount shall be payable by the first party to the second party before the Hon'ble High Court after filing the application for conversion of the present FAO into petition under Section 13-B of HMA on the first date of hearing before the Hon'ble High Court in the above said application.

b) *It has been agreed between the parties that they dissolve their matrimonial ties and will file an application for conversion of the present FAO under Section 13-B of Hindu Marriage Act before the Hon'ble High Court on or before 30.05.2023.*

c) *It is further settled that the second party shall withdraw the execution petition under Section 125 Cr.P.C. pending before the Learned Executing Court at Ludhiana before the filing of the application for conversion of the present FAO under Section 13-B of HMA. The first party shall also withdraw criminal revision bearing No.CRR(f)-184-2020 which is pending before the Hon'ble High Court.*

d) *It has been mutually agreed between the parties that their son namely Bhavesh Sharma being major and he can live with any of the parties. It is further settled that the first party undertakes:-*

i) *To bear all the educational and marriage expenses of his son namely Bhavesh Sharma.*

ii) *First party ensured that his son shall be the nominee in Max Life Insurance Policy which is in the name of first party.*

iii) *First party ensured that the medi-claim insurance policy of United India Insurance Company with his son shall go on.*

iv) *It is further settled that the first party undertakes to get the Release deed executed from his father in favour of his son Bhavesh Sharma, qua the residential house i.e. House No.1731, Street No.12, Shimlapuri, Ludhiana, Pin-141003, with the rider that the son namely Bhavesh Sharma shall not dispose off the above said property for at least 20 years. It is further settled that the release deed shall be executed before grant of divorce by way of mutual consent under Section 13-B of HMA.*

v) *It is further settled that the son namely Bhavesh Sharma shall be nominee in HDFC Bank Account which is in the name of the first party.*

vi) *It is further settled that son namely Bhavesh Sharma can join business with his father (first party) after completion of his education.*

e) *That both the parties have agreed that they will withdraw all the cases filed against each other, if any, before any Court of Law/Authority."*

7.2. In terms of the aforesaid settlement, learned counsel for the appellant has handed over a demand draft for a sum of Rs.16,06,000/- in favour of the

respondent/wife, in the Court today itself, to learned counsel for the respondent, for the same to be further handed over to the respondent.

8. Respondent/wife is present in person in the Court. She has supported the terms of the settlement/ compromise dated 25.04.2023 arrived at between the parties, and expressed her no objection to the same.

9. In view of the settlement/compromise effected between the parties, the present petition under Section 13-B of the Act is allowed. Since the divorce is being granted to the parties by way of mutual consent under Section 13-B of the Act, it goes without saying that the judgment and decree dated 28.05.2015, passed by learned Additional District Judge, Ludhiana shall have no effect, and the same stands set aside.

10. However, it is clarified that the parties shall remain bound by the terms and conditions of the aforesaid settlement/ compromise, which shall form part of the decree.

11. Decree sheet be drawn accordingly.

12. Pending application(s), if any, shall stand disposed of.

(SUDHIR SINGH)
JUDGE

(JASJIT SINGH BEDI)
JUDGE

September 06, 2024
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No