

IN THE PUNJAB & HARYANA HIGH COURT AT
CHANDIGARH

FAO-284-M-2005

Date of decision : 16.10.2015

Ghamandi Lal

... Appellant

Versus

Smt.Rajbala

... Respondent

***CORAM: HON'BLE MR. JUSTICE RAJIVE BHALLA
HON'BLE MRS. JUSTICE REKHA MITTAL***

Present: Mr. Sandeep Kotla, Advocate
for the appellant.

Mr.Manoj Tanwar, Advocate
for the respondent.

RAJIVE BHALLA, J.(ORAL)

The appellant challenges judgment and decree dated 13.08.2005, passed by the Additional District Judge, Hisar, dismissing his petition for grant of a decree of divorce.

Counsel for the appellant submits that the trial Court has failed to consider his pleas of cruelty and desertion, duly supported by sufficient pleadings and cogent evidence but states that in case the respondent admits the plea of desertion, the appellant shall give up his plea of cruelty.

Counsel for the respondent states on instructions that the respondent fairly concedes that there is sufficient evidence on record to

prove the plea of desertion as parties are residing separately for the past more than 20 years.

We have heard counsel for the parties.

The appellant filed a petition for divorce which has been dismissed. The appellant has given up his plea of cruelty whereas the respondent has admitted the plea of desertion. In order to satisfy ourselves that the statements have been made without fraud, coercion or collusion, parties are directed to record their separate statements.

Statement made by Ghamandi Lal reads as follows:-

“I give up my plea of cruelty but pray that my appeal be allowed on the ground of desertion as we have been residing apart from more than 20 years. I am ready to pay Rs.3 lacs as permanent alimony to the respondent and for the said purpose I have brought a demand draft of Rs.3 lac bearing No.690185 dated 14.10.2015. I am making statement without any pressure, coercion or collusion.”

Statement made by Rajbala reads as follows:-

“I have considered and understood the statement made by the appellant and as he has withdrawn his allegations of cruelty, I have no objection in admitting that we have been residing separately

for the last more than 20 years or to be dissolution of our marriage by grant of decree of divorce on the ground of desertion. I accept Rs.3 lacs as permanent alimony and shall not claim any maintenance alimony past, present or future or any amount from the retiral benefits of the appellant. I am making my statement without any pressure, coercion or collusion.”

An appraisal of the above statements reveals that the appellant has given up his plea of cruelty and the respondent has admitted the plea of desertion. A perusal of the evidence on record reveals that the respondent is residing separately for the past more than 20 years. The evidence on record duly supported by requisite pleadings and the admission made by the respondent proves the allegations of desertion namely that the respondent is residing separately for the last twenty years, without sufficient cause. The appellant has also handed over a demand draft bearing No.690185 dated 14.10.2015 for an amount of ₹3 lacs towards permanent alimony. The respondent has accepted this amount and stated that she will not claim any maintenance / alimony past, present or future or any amount from the retiral benefits of the appellant.

The appeal is, therefore, allowed, judgment and decree dated 13.08.2005, passed by the Additional District Judge, Hisar is set aside and the marriage of the parties is dissolved by allowing the

petition for divorce on the plea of desertion.

The parties shall withdraw any litigation filed or initiated by them or their relatives against each other.

Decree sheet be drawn accordingly.

(RAJIVE BHALLA)
JUDGE

(REKHA MITTAL)
JUDGE

October 16, 2015.
Davinder Kumar