

THE HON'BLE SRI JUSTICE SANJAY KUMAR

CIVIL REVISION PETITION NO.6508 OF 2016

O R D E R

The matter is taken up by way of a lunch motion.

This Civil Revision Petition arises out of the order dated 13.12.2016 passed by the learned XVI Additional District and Sessions Judge-cum-XVI Additional Metropolitan Sessions Judge, Ranga Reddy District at Malkajgiri, in I.A.No.922 of 2016 in O.P.No.1908 of 2016. The said O.P. was filed by both the parties to this Civil Revision Petition under Section 13-B of the Hindu Marriage Act, 1955 (for brevity, 'the Act of 1955'), seeking a divorce by mutual consent. By the order under revision, the Court below held that the statutory period of six months had not elapsed and would be completed by 22.03.2017 and therefore, the parties are required to wait till the said date before seeking dissolution of their marriage.

Both parties are present in person before this Court and produced their photo identify proofs in the form of Aadhar Cards.

Perusal of the order under revision reflects that the petition under Section 13-B of the Act of 1955 was filed in March, 2016. However, it appears that an office objection was taken and the numbering of the O.P. took place only in September, 2016. It is with reference to this later date that the Court below reckoned the period of six months and came to the conclusion that the statutory waiting period had not concluded. However, perusal of Section 13-B(2) of the Act of 1955 reflects that the waiting period of six months is to be calculated from the date of 'the presentation of the petition'. Irrespective of when the petition was numbered, it cannot be disputed that the date of its actual presentation, as pointed out by

the Court below itself, was in March, 2016. That being so, taking the later date in September, 2016 into account for the purpose of calculating the statutory waiting period is not proper.

Sri Srinath Atmakur, learned counsel appearing for the parties, would state that the advancement petition filed before the Court below was already dismissed. However, in the light of the finding rendered by this Court that the approach of the Court below in reckoning the statutory period of six months is erroneous in law, it would be open to the petitioners to move an advancement petition before the Court below and bring it to its notice that this Court has held to the effect that the six month period would have to be calculated from the date of actual presentation of the petition in March, 2016 and not from the date of its numbering in September, 2016. Upon such an advancement petition being filed, the Court below shall take up the case and take further steps in accordance with law.

The Civil Revision Petition is disposed of with the above directions. Pending miscellaneous petitions, if any, shall stand closed in the light of this final order. No order as to costs.

SANJAY KUMAR, J

30th DECEMBER, 2016

Note: Issue C.C. in three days.
B/o Svv