

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CR No.6140 of 2016(O&M)
Date of Decision- 04.10.2016**

Anu ... Petitioner No.1

And
Gurpreet Singh ...Petitioner No.2

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Ms. Puja Chopra, Advocate for the petitioners.

RAJ MOHAN SINGH, J.

[1]. In this revision petition, petitioners have jointly prayed for setting aside the order dated 22.08.2016 passed by Additional District Judge, Mohali whereby statutory period of six months as envisaged under Section 13-B of Hindu Marriage Act was not condoned by the Court.

[2]. Petitioners alleged that the marriage between the petitioners was solemnized on 15.02.2015 according to Sikh rites and it was registered also. Both the parties cohabited with each other as husband and wife, but no issue was born out of the said wedlock. Due to temperamental differences, petitioners could not adjust with each other and both started living separately since April, 2015. Due to intervention of well wishers and relatives, the differences were resolved and amicable decision was arrived at.

[3]. Both the parties filed petition under Section 13-B of Hindu Marriage Act seeking divorce on mutual consent. An

application was filed for condonation of statutory period of six months for second motion. The said prayer was declined by the trial Court on the premises that in view of law laid down in **Manish Goel Vs. Rohni Goel, 2010(2) RCR (Civil) 194**, only the Hon'ble Supreme Court can waive the statutory period under Section 13-B of Hindu Marriage Act in exercise of powers under Article 142 of Constitution of India.

[4]. Learned counsel for the petitioners referred to **Niti Arora Vs. Rohit Vij, 2009(2) RCR (Civil) 457** to contend that keeping in view the age of the parties, continuation of broken marriage would have had effect on prospects of re-marriage of the parties and it would be just and expedient to resolve the controversy by waiving the statutory period of six months.

[5]. After the aforesaid judgment passed by this Court, the Hon'ble Apex Court in **Manish Goel's case (supra)** held that only the Supreme Court can waive the period in exercise of powers under Article 142 of Constitution of India. This power is not available to High Court under Article 227 of Constitution of India.

[6]. Learned counsel for the petitioners contended that in view of judgment rendered in **Neeti Malviya Vs. Rakesh Malviya, 2010(3) RCR (Civil) 249**, the matter was referred to Three Judge Bench for clear adjudication for the purpose of future guidance.

[7]. In view of aforesaid, no such indulgence can be granted at this stage as the reference is still pending before the Hon’ble Apex Court. Consequently, this revision petition is dismissed.

(RAJ MOHAN SINGH)
JUDGE

04.10.2016
Prince

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No