

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

**CR No.8392 of 2016
Decided on: 13.12.2016**

Darshan Singh Dhillon

....Petitioner

Versus

Parminder Kaur

....Respondent

CORAM: HON'BLE MRS JUSTICE REKHA MITTAL

Present : Mr. Karanbir Singh, Advocate
for the petitioner.

REKHA MITTAL, J. (Oral)

By invoking Article 227 of the Constitution of India, the present petition has been filed to waive statutory period of 06 months for grant of divorce by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act').

Counsel for the petitioner has submitted that the petitioner and respondent have filed a joint petition under Section 13-B of the Act for dissolution of their marriage by way of mutual consent and their statements in first motion were recorded on 25.10.2016 and the case has been adjourned to 28.04.2017 for recording statements in second motion. It is further submitted that on an earlier occasion, a petition for divorce under Section 13-B of the Act bearing HMA No.3902/2016 was filed in which statements of parties in first motion were recorded on 29.01.2016 and the case was adjourned beyond 06 months for recording their statements in second motion but eventually the petition was withdrawn on the basis of statements made by both the parties. It is further submitted that keeping in view the facts and circumstances that

there is no chance of the parties living together and the petitioner has already made the payment in compliance with the terms and conditions settled between the parties, a direction may be issued to the Additional District Judge to waive waiting period of six months. In support of his contention, he has relied upon unreported judgment of Hon'ble the Supreme Court of India "***Nikhil Kumar vs Rupali Kumar***", Civil Appeal No.4490 of 2016 arising out of SLP (c) No.12161 of 2016 decided on 27.04.2016. Further reference has been made to a Division Bench judgment of the High Court of Judicature at Madras "***R. Venkatasubramanian vs Ramya Ganesan***", Civil Revision Petition (PD) No.2443 of 2016 decided on 10.08.2016.

I have heard counsel for the petitioner and perused the paperbook but find that the petition sans merit and deserves to be dismissed.

The petitioner has referred to the decision of Hon'ble the Apex Court in ***Nikhil Kumar's case (supra)*** wherein the Court in view of the peculiar facts and circumstances while exercising jurisdiction under Article 142 of the Constitution of India allowed the plea for waiving statutory period of six months and order passed by the Apex Court in exercise of jurisdiction under Article 142 of the Constitution cannot be used as a precedent for decision by the High Court.

This apart, it is admitted position of the case that earlier a petition for divorce by way of mutual consent was filed in which the parties recorded their statements in first motion but later they withdrew the petition in August, 2016. Taking into consideration the facts and circumstances obtaining in the present case when examined in the light

of judgment of Hon'ble the Supreme Court of India “*Anil Kumar Jain vs Maya Jain*”, 2009(4) RCR (Civil) 309, I find myself unable to accept prayer of the petitioner by relying upon the Division Bench judgment of the Madras High Court *R. Venkatasubramanian's case (supra)*.

For the foregoing reasons, the petition is dismissed *in limine*.

13.12.2016
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(REKHA MITTAL)
JUDGE

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