

**THE HON'BLE SRI JUSTICE SURESH KUMAR KAIT
AND
THE HON'BLE SRI JUSTICE P. KESHA RAO**

FAMILY COURT APPEAL No.365 OF 2017

ORDER: (Oral)

(Per Hon'ble Sri Justice SURESH KUMAR KAIT)

Vide the present appeal, the appellants have assailed the order dated 25.07.2017 passed in O.P.No.1674 of 2016 on the file of Judge, Family Court, Hyderabad, whereby petition filed by the appellants/petitioners No.1 & 2 under Section 10(A) (1) of the Indian Divorce Act, seeking dissolution of marriage by mutual consent, has been dismissed by the above mentioned Court by holding that it is premature for non-compliance of statutory and mandatory provisions of Section 10-A of the Divorce Act. However, liberty was given to the parties to approach the Court after expiry of the statutory mandatory period of separate residence of two years, as contemplated under Section mentioned above.

2. Pursuant to order dated 23.10.2017, both appellants are personally present in Court.

3. It is not in dispute that the marriage between the parties taken place on 20th August 2015 and now two years have already over of separation. Both the parties do not want to survive with the marriage and have prayed this Court that the marriage registered between them on 20th August 2015 may be dissolved by mutual consent.

4. Both the appellants are present in Court and they are identified by their learned counsel.

5. The appellants state that they do not want to continue with the wedlock and have prayed to dissolve the marriage.

6. The counsel for the appellants would also submit that in similar circumstances, the Kerala High Court has considered Section 10(A)(1) of the Indian Divorce Act and held that the two years period mentioned in the enactment is not mandatory apart from the completion of two years period by the date of filing of the present appeal. Therefore, viewed from any angle the intendment of the Legislature in mentioning the two years period is satisfied.

7. Keeping in view the averments made in the instant appeal and the submissions of learned counsel for the appellants, we hereby dissolve the marriage that took place between the parties on 20th August 2015 by mutual consent.

8. Accordingly, the Family Court Appeal is disposed of. There shall be no order as to costs.

Miscellaneous petitions, if any, pending shall stand closed.

JUSTICE SURESH KUMAR KAIT.

JUSTICE P. KESHAVA RAO.

Date : 30-10-2017
Gvl

