

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

(529)

FAO-M-250-2010

Decided on: August 02, 2017.

Gurjit Singh

.... Appellant

Versus

Rupinder Kaur Toor

..... Respondent

CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIHI

Present: Mr. Ashok Giri, Advocate, for the appellant.

Mr. Kirpal Singh Thakur, Advocate, for the respondent.

M.M.S. BEDI, J (ORAL)

Husband Gurjit Singh had filed a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage which was dismissed vide order dated 09.06.2010 passed by the Additional District Judge, Jalandhar. Aggrieved by the same, he has filed this appeal.

During pendency of the appeal, the parties settled the dispute and preferred to obtain a decree for divorce by mutual consent. Order dated 15.11.2016 passed in the appeal reads as follows:

“ Mr. Ashok Giri, Advocate, for the appellant.

Mr. Kirpal Singh Thakur, Advocate, for the respondent.

C.M. No.22841-CII of 2016 and

C.M. No.20718-CII of 2016

Both the parties have reportedly settled their matrimonial dispute. As a result thereof they have preferred to obtain a decree of divorce by mutual consent. In view of the above development in this case, we allow the application to convert the petition under Section 13 of the Hindu Marriage Act filed before the trial Court into one under Section 13B of the said Act. Petition filed separately under Section 13B of the Hindu Marriage Act is also taken on record.

The applications stand disposed of accordingly.

C.M. No.20717-CII of 2016

Though the matrimonial dispute was settled between the parties as the parties will have to mandatorily wait for six months from first motion to the second motion, we are not inclined to entertain the present application. Therefore, the application stands disposed of accordingly.

FAO-M-250-2010

As both the parties have settled their matrimonial dispute, the main appeal FAO-M-250-2010 is taken on file. We have already converted the petition filed under Section 13 of the Hindu Marriage Act into one under Section 13B of the Hindu Marriage Act. The petition under Section 13B was also directed to be placed on record. As the appellant and the respondent are represented by their Power of Attorneys only, we direct the trial Court to record the statements of the parties concerned who are residing in foreign country in first motion by availing the video conferencing facility and post the matter for recording the statement in second motion after six months. After recording statements in second motion of the parties by availing the video conferencing facility, the trial Court shall send a report for passing appropriate orders in this appeal which is pending disposal before us. Let the Power of Attorneys appear before the trial Court on 28.11.2016 and also on the future date fixed by the trial Court after six months to facilitate the trial Court to record the statements of the parties who are residing in foreign country by availing the video conferencing facility.

Post the matter on 10.07.2017.”

Pursuant to the above said order, the parties had appeared before the Additional District Judge, Jalandhar on 09.01.2017 and 15.07.2017 and got their statements recorded as per the directions.

The Additional District Judge, Jalandhar has sent a report regarding recording of the statements of the parties and their attorneys. Statements of the parties recorded before the Additional District Judge, Jalandhar on 09.01.2017, are taken on record as Mark A and the statements recorded on 15.07.2017, are taken on record as Mark B. Report of the Additional District Judge, Jalandhar, is made part of the record as Mark C.

On the basis of above said circumstances, we are satisfied that the parties have been residing separately since September, 2005 and the marriage has broken irretrievably on account of different temperaments of the parties.

This appeal being continuation of the proceedings under Section 13 of the Hindu Marriage Act initiated by Gurjit Singh, had been permitted to be converted into a petition under Section 13-B of the Hindu Marriage Act and is hereby disposed of dissolving the marriage of the parties by decree of divorce by mutual consent under Section 13-B of the Hindu Marriage Act.

Decree sheet be drawn accordingly.

(M.M.S. BEDI)
JUDGE

August 02, 2017.
harsha

(AUGUSTINE GEORGE MASIH)
JUDGE

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