

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

**CM Nos. 11543-45-CII of 2017
in/and FAO No.M-137 of 2016
Decided on : 19.05.2017**

Gaurav Jain

. . . Appellant

Versus

Nirmala

. . . Respondent

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

PRESENT: Ms. Maninderpreet Kaur, Advocate along with
Mr. Gaurav Jain, applicant-appellant.

Ms. Meena Bansal, Advocate along with
Ms. Nirmala, non-applicant/respondent.

AJAY KUMAR MITTAL, J. (Oral)

CM No. 11543-CII of 2017

This is an application filed under Section 151 of the CPC, seeking permission for conversion of HMA Case No.23 of 2014, filed under Section 13 of the Hindu Marriage Act, 1955 (in short 'the Act') filed before the Additional District Judge, Kaithal, into Section 13B of the Act.

2. Notice of this application.

3. Ms. Meena Bansal, Advocate, accepts notice on behalf of the non-applicant/respondent and states that a petition under Section 13B of the Act has already been filed before the trial Court, wherein, it was pointed out by the trial Court that FAO No. M-137 of 2016 is pending before this Court and therefore, first motion would be recorded only after the withdrawal of the said appeal before this Court.

4. Learned counsel for the parties submitted that during the pendency of appeal, a settlement/agreement dated 28th February, 2017

(appended as Annexure P-3) had been arrived at between the parties before

the Mediation and Conciliation Centre of this Court. Accordingly, the present appeal be dismissed as withdrawn so that the petition filed under Section 13B of the Act before the trial Court can proceed, which is pending for recording of their respective statements in terms of settlement/agreement dated 28th February, 2017.

5. After hearing learned counsel for the parties and as a petition for divorce by mutual consent under Section 13B of the Act has already been filed before the trial Court, which is pending, the Civil Miscellaneous Application is rendered infructuous and is disposed of as such.

FAO No. M-137 of 2016 (O&M)

After hearing learned counsel for the parties and in view of the prayer made for withdrawal of the appeal, the present appeal stands dismissed as withdrawn.

2. It is, however, made clear that the parties shall remain bound by the terms of the settlement/agreement dated 28th February, 2017 and in case the respondent resiles from the settlement/agreement, it shall be open to the appellant to move an application for revival of the present appeal.

3. In view of the above, prayer was also made for withdrawal of CM Nos.11544-45-CII of 2017.

4. Ordered accordingly.

**(AJAY KUMAR MITTAL)
JUDGE**

**(HARINDER SINGH SIDHU)
JUDGE**

May 19, 2017

J.Ram

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No