

FAO- M-268-2016

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

FAO- M-268-2016

Date of Decision: October 10, 2017

Sukhwinder Singh

...appellant/petitioner No.1

Versus

Lata Saini

...respondent/petitioner No.2

**CORAM: HON'BLE MR. JUSTICE M.M.S. BEDI
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH**

Present: Mr. Vipin Mahajan, Advocate
for appellant/petitioner No.1.

Mr. S.K. Choudhary, Advocate
for respondent/petitioner No.2.

AUGUSTINE GEORGE MASIH, J.

The joint petition under Section 13-B of the Hindu Marriage Act, 1955, has been filed by the petitioners seeking dissolution of the marriage between them by a decree of divorce by mutual consent.

Learned counsel appearing for the respective petitioners submit that the matter has been amicably settled and the statements of the parties at both the motions have been recorded.

We have given our thoughtful consideration to the matter.

The marriage between the petitioners was solemnized as per Sikh rites and ceremonies on 29.02.2008. Out of the wedlock, one male child namely Dakshpreet Singh was born. Due to the matrimonial disputes between them, Sukhwinder Singh-petitioner No.1, on 18.12.2013, filed a petition under Section 13 of the Hindu Marriage Act for dissolution of marriage by decree of divorce. The petition of Sukhwinder Singh-petitioner

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No.1 was dismissed on 30.03.2016. Aggrieved by the same, Sukhwinder Singh-petitioner No.1 filed an appeal i.e. FAO-M-268-2016 in this Court.

Notice of motion was issued by this Court on 12.07.2016.

During the pendency of the appeal, the matter was resolved between the parties in the Mediation and Conciliation Centre of this Court on 17.01.2017. They agreed to seek divorce by filing a joint petition for dissolution of their marriage by mutual consent on the terms and conditions that were agreed upon vide settlement/compromise dated 17.01.2017 (Ex.C-X). Accordingly, a joint petition was filed seeking divorce by mutual consent.

Statements of both the parties were recorded at the first motion on 03.04.2017. The parties have been living separately since the year 2010. Both the parties stated that they have agreed to dissolve their marriage by mutual consent. As per the terms and conditions of the settlement/compromise (Ex.C-X), petitioner No.1-Sukhwinder Singh had agreed to pay a sum of ₹ 5,50,000/- as one time settlement towards permanent alimony to petitioner No.2-Lata Saini. It has further been agreed between the parties that child namely Dakshpreet Singh born out of the wedlock shall remain with petitioner No.1-Sukhwinder Singh and petitioner No.2-Lata Saini will give up her visitation rights for the benefit of the child. It was also agreed between them that petitioner No.2-Lata Saini will not claim anything else in future from petitioner No.1-Sukhwinder Singh and both the parties shall withdraw all the pending cases filed by either of them in any Court of law by moving appropriate application.

At the second motion, both the parties have reiterated that the

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marriage between the petitioners be dissolved by a decree of divorce by mutual consent but petitioner No.2-Lata Saini stated that she would like to meet the child Dakshpreet Singh at least once a month, if possible, between 10.00 AM to 12 O'clock in Maharaja Ranjit Singh Gurdwara Sahib, Dinanagar, District Gurdaspur, preferrably on first Sunday of every month, in the presence of grandparents of the child. To this claim/term of petitioner No.2-Lata Saini, petitioner No.1-Sukhwinder Singh raised no objection and made a separate statement accepting the said term. Their statements at the second motion have been recorded.

This Court is satisfied that the averments in the petition are true that the petitioners are residing separately for more than one year and that they have not been able to live together as husband and wife due to temperamental differences and that they have mutually agreed that their marriage should be dissolved for which they have entered into a settlement/compromise dated 17.01.2017 (Ex.C-X). There appears to be no coercion etc. and their statements have been given voluntarily.

In view of the above facts and circumstances and keeping in view the statements of the parties, the joint petition for grant of divorce by mutual consent filed under Section 13-B of the Hindu Marriage Act, 1955, is allowed. The marriage between the parties shall stand dissolved by a decree of divorce by mutual consent. The parties shall remain bound by the terms and conditions agreed upon by them vide Ex.C-X and the additional term, as recorded above about the visitation right to meet their minor child Dakshpreet, of petitioner No.2 as agreed to by petitioner No.1 in Court today, which shall form part of the decree. There shall be no order as to

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costs.

Decree sheet be prepared accordingly.

Counsel for petitioner No.1-Sukhwinder Singh, in view of the joint petition for divorce by mutual consent being allowed, has stated that the appeal i.e. FAO-M-268-2016 filed by him, has been rendered infructuous and may accordingly be dismissed as such.

Counsel appearing for petitioner No.2-Lata Saini submits that he has no objection to the same.

Appeal i.e. FAO-M-268-2016 is dismissed as having been rendered infructuous.

(M.M.S. BEDI)
JUDGE

(AUGUSTINE GEORGE MASIH)
JUDGE

October 10, 2017
Harish

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No