

The Hon'ble Sri Justice Raghvendra Singh Chauhan

and

The Hon'ble Sri Justice M.Satyanarayana Murthy

IA.No.1 of 2018 in/ & F.C.A.No.361 of 2017

Date: 12.12.2018

Judgment: (per Hon'ble Sri Justice Raghvendra Singh Chauhan)

Mr. Musunuru Naga Kishore, the appellant, and Mrs. Musunuru Divya, the respondent, are present before this Court. They have submitted their Aadhar cards in proof of their identification; they have also been identified by their respective Counsel.

The appellant has filed the present appeal challenging Judgment, dated 31-07-2017, whereby the learned XIV Additional District and Sessions Judge –cum- Additional Family Judge, Vijayawada, has dismissed OP.No.760 of 2014, filed by the appellant for grant of divorce under Section 13 (i) (ia) of the Hindu Marriage Act, 1955 (for short 'the Act').

However, during the pendency of the present appeal, the parties have entered into a compromise, in pursuance of which, they have filed IA.No.1 of 2018 to grant a decree of divorce in terms of Joint Memo, dated 10-12-2018, annexed thereto, by waiving off the condition under Section 13-B of the Act.

As per the terms of compromise, the appellant has agreed to pay a sum of Rs.5 lakhs to the respondent towards all her claims, including permanent alimony, and the respondent, in turn, has agreed to withdraw all the cases initiated against the appellant including CC.No.1029 of 2015 filed under Section 498-A IPC in the Court of the Judicial First Class Magistrate at Nelamangala, Bangalore, Karnataka State.

Relying on the case of **Amardeep Singh vs. Harveen Kaur**¹, the learned Counsel for the appellant has pleaded that the cooling off period of six months mentioned in Section 13-B (2) of the Act is held to be directory in nature and not a mandatory one. Therefore, the learned Counsel pleads that this Court should waive off the said period and not require the parties to wait for a further period of six months as the cooling off period. He further points out that the parties have been living separately ever since 2014; in the last four years, they have not cohabited as husband and wife.

Considering the fact that the parties have separated about four years back, and also that they have agreed for divorce by mutual consent, this Court sets aside the

¹ 2017 (5) ALT (SC) 23 (D.B.)1

impugned Judgment, dated 31-07-2017, in OP.No.760 of 2014, on the file of the XIV Additional District and Sessions Judge –cum- Additional Family Judge, Vijayawada, allows IA.No.1 of 2018 and dissolves the marriage, dated 24-10-2012, performed between the parties, under Section 13-B of the Act.

The Appeal is, accordingly, allowed in terms of compromise.

Registry is directed to draft the decree accordingly.

(Raghvendra Singh Chauhan, J)

(M.Satyanarayana Murthy, J)

Dt: 12th December, 2018
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