

In the High Court of Punjab and Haryana at Chandigarh

.....

Civil Revision No.1594 of 2018

.....

Date of decision:18.5.2018

Daksh Kumar

.....Petitioner

v.

Vandana

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Rajvir Singh, Advocate for the petitioner.

Mr. Bikramjit Singh Randhawa, Advocate for the respondent.

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Inderjit Singh, J.

This civil revision petition has been filed under Article 227 of the Constitution of India for setting aside the impugned order dated 1.3.2018 (Annexure-P.1) passed by the learned Additional District Judge, Rupnagar in petition under Section 13-B of Hindu Marriage Act case No.29 of 6.2.2018 titled as “Daksh Kumar vs. Vandana”, vide which the application for dispensing with the statutory period of six months, has been declined, and to further allow the application for dispensing with/waiving off the statutory period of six months.

Notice of motion was issued in this case.

Mr. Bikramjit Singh Randhawa, learned Advocate has put in appearance on behalf of the respondent and not contested this civil revision

petition.

I have heard learned counsel for the parties and have gone through the record.

From the record, I find that Daksh Kumar and Vandana filed a joint petition under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as 'HMA') for the dissolution of marriage by way of passing a decree of mutual consent. The parties requested the Court below to dispense with the statutory period of six months by filing an application but that application had been dismissed by the learned Additional District Judge, Rupnagar vide order dated 1.3.2018.

The learned Additional District Judge, Rupnagar, has discussed the judgment passed by the Hon'ble Supreme Court in Amardeep Singh v. Harveen Kaur, 2017 (3) Apex Court Judgments 196, in which in para No.13, it has been observed that the Court should consider the following questions while exercising the discretion of waiving the period of six months:-

- “i How long parties have been married?
- ii How long litigation is pending?
- iii How long they have been staying apart?
- iv Are there any other proceedings between the parties?
- v Have the parties attended mediation/conciliation?
- vi Have the parties arrived at genuine settlement which takes care of alimony, custody of child or any other pending issues between the parties?”

The learned Additional District Judge, Rupnagar, has not discussed all these points and dismissed the application.

At the time of arguments, learned counsel for the parties brought it to my notice that the marriage between the parties was solemnized in the year 2013 and they have been living separately since the year 2015. It has also been argued by both the counsel that the child was with the husband and other matters have been fully settled in the proceedings dated 12.1.2018 held before the Mediation and Conciliation Centre of Punjab and Haryana High Court, Chandigarh in Mediation Case No.2129 of 2017, Re:T.A. No.543 of 2017, “Vandana vs. Daksh Kumar” (Annexure-P.1).

Keeping in view the above stated facts that the parties have already been residing separately since the year 2015 and settlement has been effected with the help of the Mediation and Conciliation Centre of Punjab and Haryana High Court and the fact that all the claims regarding the child etc. have been settled, the period of six months would have been condoned by the learned Additional District Judge, Rupnagar. In the impugned order dated 1.3.2018, the learned Additional District Judge, Rupnagar, has not considered all these facts which are to be considered as per the law laid down by the Hon'ble Supreme Court and cited by the Court itself in the impugned order.

Therefore, the learned Additional District Judge, Rupnagar, has not exercised the discretion in a judicious manner. Hence, this civil revision petition is allowed and the impugned order dated 1.3.2018 passed by the learned Additional District Judge, Rupnagar, is set aside.

[4]

The parties are directed to appear before the learned Additional District Judge, Rupnagar, on 28.5.2018 for getting recorded the final statements before the Court below.

May 18, 2018.

(Inderjit Singh)
Judge

hsp

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