

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

105+255

FAO-M-117-2017 (O&M)

(converted to petition u/s 13-B
of Hindu Marriage Act 1955)

Date of Decision: 18.12.2018

JITENDER YADAV

....Petitioner No.1.

and

POONAM YADAV

...Petitioner No.2.

**CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL**

Present: Petitioner No.1 in person with
Mr. S.N. Yadav, Advocate

Petitioner No.2 in person with
Mr. Rajnish Dadwal, Advocate.

RAKESH KUMAR JAIN, J. (ORAL)

CM-27375-CII-2018 IN CM-26640-41-2018

This application is filed jointly for seeking waiver of the statutory period of six months for obtaining decree of divorce by mutual consent after recording their statement at the second motion stage.

Learned counsel for the applicant/petitioners have submitted that the statement at the first motion stage was recorded on 5.12.2018 and the case was adjourned to 5.7.2019 for recording of the statement at the second motion stage. It is submitted that since there is no child born out of the wedlock of the parties and they are living separately, therefore, the pendency of this case would enhance their agony. In this regard, counsel for the applicant/petitioners have relied upon a decision of the Supreme Court rendered in the case of **Amardeep**

Singh Vs. Harveen Kaur, 2017 (4) R.C.R. (Civil) 608, to contend that the waiver application can be filed after one week giving reasons for waiver.

We have heard counsel for the parties and keeping in view the reasons given in the application, the application is allowed and the statutory period of six months is hereby waived. Hearing of this case for the purpose of recording the statement at the second motion stage is preponed for today.

MAIN CASE

Since the application (CMM-26640-CII-2018) filed before this Court under Order 6 Rule 17 read with Section 151 CPC seeking permission to convert the appeal (FAO-M-117 of 2017) into a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') to grant decree of divorce by way of dissolution of marriage by mutual consent has been entertained and allowed on 5.12.2018; the statement of both the parties at the first motion stage was also recorded on 5.12.2018 and the amount of ₹ 8 lakh has already been paid in the account of Pawan Kumar Yadav, Advocate at the asking of the respondent wife, therefore, we are recording the statement at the second motion stage of both the husband and wife in Court today. Statements recorded separately at the second motion stage are taken on record.

We have, otherwise, also asked both the parties as to whether they stick to their earlier stand of seeking decree of divorce by mutual consent and are suffering their statements voluntarily to which they replied in affirmative.

Keeping in view the fact that both the parties have recorded their statements at the first and second motion stage and the amount of

₹8 lakh has already been deposited in the account of the counsel for the respondent wife, the present petition is hereby allowed and the marriage of the petitioners is hereby dissolved by way of decree of divorce by mutual consent. Both the parties shall be bound by their statements. Decree sheet be prepared accordingly.

(RAKESH KUMAR JAIN)
JUDGE

(ANUPINDER SINGH GREWAL)
JUDGE

18.12.2018.

SwarnjitS

Whether speaking/reasoned :	YES/NO
Whether reportable :	YES/NO