

FAO-M No.290 of 2018 -1-

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

**FAO-M No.290 of 2018
Date of decision:October 17, 2018**

Harjit Mahey

...Appellant

Versus

Daljit Kaur

...Respondent

**Coram: Hon'ble Mr.Justice Rakesh Kumar Jain
Hon'ble Mr.Justice Anupinder Singh Grewal**

Present: Mr.Zorawar Singh Chauhan, Advocate for the appellant.

Rakesh Kumar Jain, J. (Oral)

This appeal is directed against the order dated 1.10.2018 passed by the learned Additional Civil Judge (Sr.Divn.), Phagwara by which the petition filed under Section 13-B of Hindu Marriage Act, 1955 (for short 'the Act') for dissolution of marriage with mutual consent has been dismissed on the ground that the statement for the second motion has not been recorded by the respondent-wife herself and has rather been recorded on her behalf by her grand-mother holding her power of attorney.

Notice of motion.

Sh.Jitender K.Sehrawat, Advocate has put in appearance on behalf of the respondent. The power of attorney has been signed by Jeeto wife of Lachhman Dass as special power of attorney of Daljit Kaur (respondent). Counsel for the respondent has submitted that as per instructions, the respondent Daljit Kaur is also interested in getting the divorce with mutual consent.

Counsel for the appellant in support of his contention has relied

upon a Division Bench judgment of this Court in *Jaspreet Kaur Dhaliwal Versus Kulwinder Singh 2016(1) Law Herald 737* in which the second statement was made by the father of the girl as power of attorney.

After hearing learned counsel for the parties and keeping in view the aforesaid facts and circumstances much less the law laid down by this Court in *Jaspreet Kaur Dhaliwal's case (supra)*, we are of the considered opinion that order passed by the Court below is patently illegal therefore, the present appeal is allowed and impugned order dated 1.10.2018 is set aside. The matter is remanded back to the learned trial Court to record the second motion statement on behalf of the respondent through her power of attorney, namely her grand mother.

Parties are directed to appear before the trial Court on 20.10.2018.

(Rakesh Kumar Jain)
Judge

(Anupinder Singh Grewal)
Judge

October 17, 2018
Meenu

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