

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

116

**FAO-2166-2019 (O&M)
Date of Decision : 19.03.2019**

Amandeep

... Appellant

Versus

Naveen Nandal

...Respondent

**CORAM:HON'BLE MR. JUSTICE RAKESH KUMAR JAIN
HON'BLE MR. JUSTICE HARNARESH SINGH GILL**

Present: Mr. Amandeep Vashisth, Advocate for the appellant.

RAKESH KUMAR JAIN, J.(ORAL)

This appeal is filed at the instance of the husband against the order dated 21.02.2019 vide which petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') filed by both appellant and respondent jointly has been dismissed because the respondent had resiled to give her consent for divorce by way of mutual consent at the time of recording of statement at second motion stage.

Learned counsel for the appellant has submitted that the appellant had changed his decision on the assurance given by the respondent that she would abide by the terms and conditions on the basis of which they had filed petition under Section 13-B of the Act. In this regard, it is submitted that the appellant had given a car, jewellery and household articles before the statement at the first motion stage was recorded. He has submitted that in case, the respondent is not interested in seeking a decree of divorce by way of mutual consent then at least she should be directed to return the aforesaid articles which were given to her with the hope that she would agree to the divorce by mutual consent.

We have heard learned counsel for the appellant and after perusal of the record, are of the considered opinion that in such circumstances, the appellant has a remedy to file an application before the same court before whom the application under Section 13-B of the Act was filed, much less in terms of Section 144 of the Civil Procedure Code, 1908 (for short C.P.C.) for seeking status quo ante i.e. recovery of the articles given to the respondent in terms of the settlement arrived at between them.

Insofar as, appeal is concerned no relief can be granted to the appellant because the respondent has a right to resile from the statement at the stage of second motion because the period of 6 months is provided in Section 13-B(2) of the Act for the purpose of rethinking on the part of the either spouse for the purpose of seeking divorce by way of mutual consent.

With these observations, present appeal is hereby disposed of.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

19.03.2019
pooja saini

Whether speaking/reasoned?

Yes/No

Whether reportable?

Yes/No