

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-2334-2019 (O&M)

Date of Decision: 27.11.2019

Ramanjeet Kaur Dhillon

...Appellant

Versus

Jagsir Singh

...Respondent

**CORAM:- HON'BLE MR. JUSTICE RAJAN GUPTA.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.**

PRESENT: Mr. Jaspreet Singh Brar, Advocate for the appellant.

Mr. Uday Jain, Advocate for the respondent.

RAJAN GUPTA, J. (Oral)

Marriage between the parties was solemnized on 3.12.2012 at Faridkot as per Sikh rites. Parties thereafter cohabited. It appears that they could not adjust with each other due to some temperamental differences. As a result, they presented a joint petition under Section 13-B of the Hindu Marriage Act, 1955 (for short "the Act") before the Family Court, Moga for dissolution of their marriage. Their statements were recorded at first motion. Settlement arrived at between them was taken on record. The matter was thereafter adjourned by the court below. After expiry of the statutory period of six months, the parties again made their statements at second motion. They stood by the stand taken by them at the first motion. As the court accepted the version that there was no compatibility between the couple and there was no chance of reconciliation, it acted as per the

provisions of Section 13-B of the Act and dissolved the marriage by a decree. Said decree has been challenged by the wife in the instant appeal.

No plausible explanation is forthcoming for posing challenge to a decree passed on the basis of mutual consent. Besides, it is clear that this court has already held in judgment titled as **Gaurav Arya v. Anandita Jain, FAO-5761-2018** decided on 1.11.2019 that no appeal would lie against a consent decree of divorce passed under Section 13-B of the Act. The operative paras of the said judgment read as under:-

“Further, the Family Court Act, 1984 is a subsequent legislation and its framers were well aware of the provisions of the Hindu Marriage Act, 1955. Even assuming there is a conflict between Section 19(2) of the Family Court Act, 1984 and Section 25 of the Hindu Marriage Act, 1955, the latter must yield to the former keeping in view the well known doctrine of *generalia specialibus non derogant*, otherwise Section 19(2) of the Family Courts Act, 1984 will be rendered otiose, which would clearly be contrary to legislative intent.

Even if Section 19(2) of the Family Courts Act, 1984 is read down to mean that no appeal would lie against the consent decree of divorce under the Hindu Marriage Act, 1955 and what can be agitated is only the quantum of maintenance, the fact remains that the Salary Certificate produced by the appellant is an unreliable and an untrustworthy document. It discloses only the net salary and is misleading, evasive and does not disclose

the entire details.

In light of the above, we do not find any reason to interfere in the impugned order dated 26.03.2018 passed by the Additional Principal Judge, Family Court, Gurugram. Consequently, the instant appeal is dismissed.

In view of above, present appeal is hereby dismissed.

Since the main appeal has been dismissed on merits, no further orders are required to be passed in CM-7558-CII-2019 for condonation of delay in filing the appeal. Same is disposed of as such.

**(RAJAN GUPTA)
JUDGE**

November 27, 2019
gbs

**(MANJARI NEHRU KAUL)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No