

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

FAO-M No. 146 of 2019 (O&M)

Date of Decision: 05.07.2019

Surjit Kaur

.....Appellant No. 1

Vs.

Balkar Singh

.....Appellant No. 2

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

Present: - Mr. M.S.Dhami, Advocate
for the appellants.

HARNARESH SINGH GILL, J.

The present appeal has arisen from the judgment and decree dated 17.7.2017 passed by the Additional Civil Judge (Senior Division), Dasuya, exercising the powers of District Judge, vide which the petition filed under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred as 'Act') for dissolution of marriage has been allowed by passing a decree of divorce.

In brief, marriage of parties to the *lis* was solemnized on 18.3.2000 as per Sikh rites at village Jalalpur, Tehsil Dasuya, District Hoshiarpur. They are blessed with two children i.e. one son, namely, Ramanjit Singh and daughter Rupinder Kaur. Due to some temperamental differences, both started living separately since 13.3.2015. The well-wishers and relatives of both of them tried their best to reunite them but their efforts went in vain. Therefore, both of them decided to dissolve their marriage by way of decree of divorce by mutual consent.

Both of them i.e. appellants preferred a petition under Section

13-B of the Act which came up for hearing before Additional Civil Judge (Senior Division), Dasuya, exercising the powers of District Judge. On 16.1.2017, the first motion joint statement of both the appellants i.e. Surjit Kaur-appellant No. 1 and Balkar Singh-appellant No. 2 was recorded. After lapse of six months, the second motion joint statement of appellants was recorded on 17.7.2017 that they were living separately and could not live together any more. In view of the joint statements of both the appellants, their marriage was dissolved by a decree of divorce under Section 13-B of the Act on 17.7.2017.

Now the present appeal has been filed by the appellants for setting aside the impugned judgment and decree dated 17.7.2017, vide which their marriage was dissolved by way of decree of divorce under Section 13-B of the Act.

Mr. M.S.Dhami, Advocate for both the appellants has argued that after the decree of divorce dated 17.7.2017, the appellants have realized their mistake and now want to live together especially in the interest of their both grown up children, who persuaded them to meet each other and live together. As per counsel for the appellants, both the appellants have now decided to live together by brushing aside their egos and differences, especially for the better future prospects of their children. Learned counsel has relied upon the decision of this Court dated 10.1.2019 rendered in the case of ***Jyoti versus Neeraj Kumar Saini***.

We have given our thoughtful consideration to the arguments raised by the learned counsel for the appellants.

It has been taken into consideration in the case of ***Jyoti*** (supra) that the consent decree passed under Section 13-B of the Act, is appealable

under Section 28 of the said Act and Section 96 (3) of Code of Civil Procedure, 1908 is not a bar.

The impugned judgment, in the present case, is also based on unfounded emotions and momentary temperamental differences resulting into a decree of mutual divorce. The appellants have now realized that they have committed a serious mistake and after thoughtful consideration and for the better future prospects of their grown up children, the appellants have decided to live together.

To our mind, a duty is cast on the Court to make all endeavours for reconciliation between the parties. As of now both the appellants are repenting for their mistake for getting a decree of divorce under Section 13-B of the Act as this judgment and decree of divorce will stand like a rock to deprive the love and affection to their children. Thus, one is never late in life to mend a mistake, which the appellants have committed.

Therefore, taking into consideration the facts and circumstances of the present case, coupled with the fact that the appellants have since forgiven each other and have decided to live together for the welfare of their family and especially for their children, we allow this appeal and set aside the judgment and decree dated 17.7.2017, vide which marriage of the appellants was dissolved.

(RAKESH KUMAR JAIN)
JUDGE

(HARNARESH SINGH GILL)
JUDGE

July 05, 2019
Gurpreet

Whether speaking /reasoned : Yes
Whether Reportable : Yes