

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

FAO No.5689 of 2019 (O&M)

Date of decision: September 16, 2019

Neelam

...Appellant

Versus

Sanjeev Kumar

...Respondent

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

Present: Mr. Gurcharan Dass, Advocate for the appellant.

Rajan Gupta, J.(oral)

Present appeal is directed against the order dated 05.08.2019, passed by Principal Judge, Family Court, Ludhiana, whereby he has rejected the plea of the parties for dissolution of their marriage by invoking Section 13-B of the Hindu Marriage Act.

A joint petition was preferred before the court below averring therein that marriage between the parties was solemnized on 30.12.1998 as per Hindu rites and ceremonies. A male child was born out of the wedlock on 23.05.2002. They raised the plea that they were not able to pull long together due to temperamental differences. Despite efforts by family and friends, nothing fruitful had come out. They had, thus, decided to seek dissolution of their marriage. According to petitioner, a sum of Rs.1,30,000/- was paid to respondent-husband in lieu of a plot measuring 47.5 sq. yards in Tilak Nagar, Ludhiana. It was decided that the minor child would remain under the care and custody of the mother. During the course of hearing, their statements at the first motion was recorded on 29.01.2019. Matter was thereafter adjourned to 2.8.2019. During the course of proceedings, Adhar Card of petitioner No.1 was produced before the court. On a perusal thereof, the court found that

petitioner No.1 was not 18 years of age at the time of her marriage. It, thus, found itself in a quandary how to invoke the provisions of Section 13-B of the Act, in such a situation when doubts arise about the validity of marriage. The parties moved an application under Order 6 Rule 17 read with Section 151 CPC supported by their affidavits seeking amendment of their date of marriage from 30.12.1998 to 30.12.1999. The court rejected this plea for amendment and dismissed the petition under Section 13-B of the Hindu Marriage Act.

We find no ground for interference in the appellate jurisdiction. Having been confronted with the question about the validity of the marriage, the parties did not hesitate to move application for amendment in the petition seeking to substitute the date of marriage as 30.12.1999. Apart from complete abuse of process of law, this would amount to hoodwinking the court. Counsel has been repeatedly asked as to why such a petition was not moved earlier despite the fact that parties had been married in the year 1998 and they have about 17 years old male child living with them. A claim for maintenance was made in 2014 i.e. after 16 years of marriage. None of the pleas raised by the appellant convinces this court. Besides, there are serious doubts about the maintainability of the appeal against the impugned order.

Dismissed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

September 16, 2019
'Rajpal'

Whether speaking / reasoned

Yes / No

Whether Reportable:

Yes / No