

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

**CM-14833-CII-2019 IN/AND
FAO-5707-2018
Decided on : 26.08.2019**

Gaurav Asija

. . . Appellant(s)

Versus

Jyoti @ Ayesha

. . . Respondent(s)

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

PRESENT: Mr. Gaurav Gupta, Advocate
for the appellant(s).

Mr. Abhilaksh Grover, Advocate
for the respondent(s).

RAJAN GUPTA, J. (Oral)

CM-14833-CII-2019

This is an application for placing on record the affidavit of the respondent. Application is allowed as prayed for and the said affidavit is taken on record. Registry to page mark the paper book accordingly.

FAO-5707-2018

This is an appeal emanating from the judgment dated 08.08.2018, passed by the Family Court, Faridabad, whereby, the petition filed by the husband for dissolution of marriage was dismissed. Therefore, instant appeal was preferred before this Court. Matter was referred to the Mediation and Conciliation Centre of this Court. A settlement was arrived at between the parties, and the same was reduced into writing on 30th March, 2019. As a result of which, an application was moved for converting the instant appeal to a petition under Section 13-B of the Hindu Marriage Act, 1955 (in short 'the Act'). Vide order dated 08.07.2019, the said application was allowed.

The parties made their statements at the first motion stage on July 15,

2019. They sought further time for making statements at the second motion stage. Today, both of them have appeared and made their respective statements at the second motion stage in terms of the settlement. They have submitted that they would adhere to the terms & conditions of the settlement and therefore, their marriage be dissolved by way of mutual consent.

Learned counsel has prayed that the statutory period of six months as envisaged in Section 13-B(2) of the Act be waived of, in view of the fact that parties are living separately since last 4½ years.

In view of judgment of the Apex Court rendered in *Amardeep Singh Vs. Harveen Kaur, 2017(4) R.C.R. (Civil) 608*, this Court accepts the plea. The statutory period is waived of as all the conditions envisaged by the said judgment are satisfied. Apart from the fact that the parties have been living separately for more than a year, all efforts to settle the matter through mediation have failed. Besides, parties have now genuinely settled their disputes including the permanent alimony, custody of the minor child etc. In our considered view, waiting further would prolong the agony of the parties. The statutory period is thus waived of.

In view of the statements made by the parties at the first and second motion stages before this Court, the marriage between the parties stands dissolved by a decree of divorce by way of mutual consent. Decree sheet be drawn up accordingly.

The appeal is accordingly allowed.

(RAJAN GUPTA)
JUDGE

(MANJARI NEHRU KAUL)
JUDGE

August 26, 2019
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No