

HIGH COURT OF CHHATTISGARH, BILASPUR

FAM No.184 of 2017

Kishan Agrawal S/o Shri Ramanand Agrawal, Aged About 36 Years R/o
Murarka Lane, Behind City Kotwali, Police Station Kotwali, Korba CG
----Appellant

Versus

Smt. Rashmita Agrawal W/o Kishan Agrawal, Aged About 32 Years D/o
Shri Subhash Chandra Jain, R/o Post Pratap Sagar Para Balangir,
District Balangir Orrisa
--- Respondent

For Appellant	:	Mr. Ashutosh Shukla, Advocate
For Respondent	:	Ms. Anjali Singh Chouhan, Advocate

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board by Manindra Mohan Shrivastava, J.

20/01/2020

Heard.

1. This appeal arises out of judgment and decree dated 27.02.2017 passed by the Family Court, Korba, by which, application for grant of decree of divorce filed by the husband against the wife was dismissed.
2. During the pendency of this case, in order to explore the possibility of amicable settlement between the parties, the parties were referred to mediation. The Mediator submitted report on 16.08.2019 that after conducting mediation sessions, the Mediator informed vide report dated 05.08.2019 that the parties have arrived at settlement and the settlement has also been signed by the parties and their respective Advocates. A copy of the original agreement/deed of settlement between the parties has also been attached. The said deed has been signed by both the parties and by their respective counsel and the Mediator.
3. Learned counsel for the parties submitted that the parties had appeared before the Mediator in the Mediation Centre of the High Court and after detailed deliberation, both the parties finally entered into a settlement.

They submit that the settlement document has also been signed by them and also by the parties.

4. After settlement arrived at between the parties, both the parties agreed for grant of divorce by mutual consent subject to fulfillment of various conditions which have been specifically and clearly stated in the agreement.

5. The terms and conditions of settlement between the parties are clear and unambiguous.

6. Later on, both the parties submitted an application under Section 13-B of the Hindu Marriage Act signed by them and their respective counsel that in the above document when they have settled their dispute amicably having agreed to various terms and conditions stated in the agreement and that the parties have been living separately since long and further that Rs.7,00,000/- has already been given by the husband to the wife, the impugned judgment and decree passed by the Court below may be set aside and a decree of divorce by mutual consent may be granted by waiving cooling off period of six months.

7. After going through the contents of the application, under Section 13-B of the Hindu Marriage Act, specific averments made therein, application signed by both the parties and their respective counsel and also taking into consideration that the settlement has been arrived at between the parties during mediation proceedings in the Mediator Centre of the High Court and the parties have settled their dispute on clear and explicit terms and conditions that they would be taking divorce by mutual consent, in the peculiar circumstances and also taking into consideration that Rs.7,00,000/- have been given by husband to the wife and the parties have also entered into agreement with regard to the custody of their child and other conditions including withdrawal of another case which has also been withdrawn as per order dated 30.09.2019 passed in MAT No.29 of 2017(Smt. Rashmita Agrawal Vs. Kishan Agrawal) by the Court of Judge Family Court, Balangir, we are inclined to allow the application under Section 13-B of the Hindu Marriage Act and to grant decree of divorce by waiving cooling off period of six months.

8. In the result, the impugned judgment and decree is set aside and the application filed by the parties before this Court under Section 13-B of the Hindu Marriage Act is allowed. The marriage of the parties which was solemnized on 12.06.2012 is dissolved by decree of divorce.

9. The “समझौता पत्र” (settlement deed) executed between the parties on 05.08.2019 in the Mediation Centre of the High Court of Chhattisgarh shall form part of the decree of divorce.

10. Let appellate decree be drawn accordingly.

11. The parties shall bear their respective costs.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Rekha