

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

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IN VIRTUAL COURT

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CR No.1786 of 2021 (O&M)

Date of Decision: 03.09.2021

Neetu Bhandari

..... Petitioner No.1

AND

Sunil Guraha

.....Petitioner No.2

CORAM: HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Gian Chand Garg Dhuriwala, Advocate
for the petitioner No.1.

Mr. Sanjeev Chaudhary, Advocate
for the petitioner No.2.

Rajbir Sehrawat, J. (Oral)

The present petition has been filed under Article 227 of the Constitution of India praying for setting aside the impugned order dated 19.08.2021 (Annexure P1) passed by the Principal Judge, Family Court, Panchkula, Haryana, with a further prayer of waiving of the period of six months, as required under Section 13(B)(2) of the Hindu Marriage Act.

It is submitted by learned counsel for petitioner No.1 that the parties are residing separately since January, 2020. This fact has not been disputed by learned counsel for petitioner No.2. The counsels have also submitted that the petition was filed by the petitioners only after expiry of one year of their residing separately. The parties have also made a statement of first motion before the Court below. Not only that, even the total period of

separation of one and a half year is over and the divorce petition filed by them has not been withdrawn by either of the parties so far, therefore, the Court was required to grant a decree of divorce.

In the end, it is submitted by the counsels for the petitioners that even applying the standard adopted by the Court below, the six months, as has been interpreted by the Court below is also over, by now. Hence, the Court should have waived off the period of six months and ought to have granted them the decree of divorce.

Considering the arguments of the counsel for the parties, the Court finds that the parties have already undergone separation period of 18 months, as per their admissions. None of the parties have withdrawn the consent granted for filing of the petition. Although the statement of first motion was recorded on 02.07.2021 and, even taking to be before six months, as is observed by the Courts below, now the said period is over by influx of time. The parties have asserted that there is no possibility of them joining in their matrimonial home. Hence, it would not be unjustified if the trial Court re-appreciate the matter, and accordingly, is directed to decide the issue afresh.

Accordingly, the present petition is allowed and the impugned order is set aside.

The trial Court is directed to decide the issue of waiver of the statutory period of six months, afresh.

3rd September, 2021

Sonia Puri

(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No