

02 15.06.2022

Ct-08

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FAT 12 of 2019
with
I.A No. CAN 2 of 2019(Old No. CAN 6114 of 2019)

Ashim Bose
Vs.
Smt. Rumela Bose (De)

Mr. Sanjoy Das
... For the Appellant

Mr. Supriyo Das
... For the Respondent

In terms of our order dated 20th May, 2022, an application under Section 13B of the Hindu Marriage Act, 1955 has been filed before the learned Additional District Judge, 1st Court at Barrackpore being Matrimonial Suit No. 1488 of 2022 and the photostat copy of the same filed in court be kept with the record.

In view of the fact that spouses are living separately from 2013 and nothing is likely to come out of the waiting period of six months, the marriage is irretrievably broken, the six months' waiting period prescribed under Section 13B of the Hindu Marriage Act, 1955 is not required to be followed in the instant case. Moreover, parties have agreed for dissolution of marriage through mediation, as recorded in the final report of the learned Mediator dated 2nd May, 2022 along with agreed terms of settlement. The said provision was also held be directory and not mandatory in **Amardeep Singh Vs. Harveen Kaur, reported in AIR 2017 SC 4417**. In shortening the statutory period, we have also taken into consideration the factors mentioned in paragraph 27 of the judgment of the Hon'le Supreme Court in **Amit Kumar Vs. Suman Beniwal, reported in 2021 SCC Online 1270**.

We have been informed by the learned counsel for the appellant that the appellant, Mr. Ashim Bose, is waiting for final order for dissolution of marriage, as he is going to abroad for service.

Under such circumstances, we request the concerned court to dispose of the application under Section 13B of the Hindu Marriage Act, 1955 within two weeks from the date of communication of this order by either of the parties.

The final report of the learned Mediator dated 2nd May, 2022 along with the original terms of settlement appears that the parties with free will and mind have agreed to arrive at an amicable settlement through mediation. The settlement agreement has been drawn and approved in terms of Rule 24(1) and (2) of the **Civil Procedure – Alternative Dispute Resolution & Mediation Rules 2006**. The agreement is lawful. The parties and their respective attorneys have signed the original terms of settlement and submitted to the Mediator in terms of Rule 24 (2) of the aforesaid Rule.

In view thereof, FAT 12 of 2019 is disposed of on the terms of settlement dated 2nd May, 2022 along with all connected application.

The parties are directed to move before the learned Additional District Judge, 1st Court at Barrackpore, North 24 Parganas, before whom Matrimonial Suit No. 1488 of 2022 is pending, and the said Court is directed to dispose of the suit within the time, as stipulated above.

The respondent/wife is directed to withdraw all the pending civil and criminal proceedings against the appellant/husband in different courts, save and except the application for

divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955.

There will be no order as to costs.

(Siddhartha Roy Chowdhury,J.)

(Soumen Sen, J.)