

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR-3291-2022

DATE OF DECISION: SEPTEMBER 8, 2022

AMOL SINGH SANDHU

...PETITIONER

VERSUS

SHIVANI

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. J.S. CHANDAIL ADVOCATE FOR THE PETITIONER.

MANOJ BAJAJ, J.(ORAL)

The petitioner(husband) has filed this petition under Article 227 Constitution of India to challenge the order dated 20.7.2022 (Annexure P-2) passed by the Addl. District Judge, Chandigarh, whereby his application under Order 23 Rule 3 read with Section 151 CPC seeking decree for divorce on the basis of settlement was dismissed.

Learned counsel for the petitioner has argued that the husband had filed a petition under Section 13 of the Hindu Marriage Act, 1955 for dissolution of marriage against his wife(respondent) and during the pendency of the same, the parties were relegated before the Mediation and Conciliation Centre, where the dispute was amicably settled, as they decided to sever their matrimonial relations. In this regard, he has invited the attention of the Court to the settlement dated 4.10.2019 (Annexure P-1). He submits that despite this, the Court has wrongly refused to pass a decree for dissolution of marriage in terms of Order XXIII Rule 3 CPC, by ignoring the fact that the wife is bound to comply with her decision before the Mediation Centre. He submits that the petitioner has already transferred 18 acres of

land in favour of his wife towards permanent alimony for wife and children.

He submits that the impugned order be set aside.

After hearing learned counsel for the petitioner and considering the background, this Court finds that the prayer made by the husband is misplaced as the mutual agreement arrived at between the parties had only proposed to take steps for mutual dissolution of marriage by modifying the application under Section 13(B) Hindu Marriage Act, 1955 and admittedly no such petition has been filed. The settlement dated 4.10.2019 reflects that neither any petition was filed, nor said statement was recorded as required by law, therefore, the argument of the learned counsel that the said decision is enough for passing the decree of dissolution of marriage of the parties is without any merit, as the decision of the parties dated 4.10.2019, does not meet with the statutory requirement of Rule 3 Order XXIII CPC.

A perusal of the impugned order shows that the Family Court has carefully examined the facts and circumstances of the case, while declining the petitioner's prayer, and the order does not suffer from any illegality and impropriety. Besides, the proceedings on the original petition filed by the husband have further been initiated, thus, no case is made out for interference by this Court.

Dismissed.

September 8, 2022
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes/No

Whether Speaking/Reasoned : Yes/No