

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

CR No.3791 of 2022

Date of decision: 12.09.2022

Jyoti Duggal

..... Petitioner

versus

Sanjeev Kumar Duggal

..... Respondent

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Manoj Kumar, Advocate
for the petitioner.

TRIBHUVAN DAHIYA J.

This revision petition has been filed under Article 227 of the Constitution of India for setting aside the order, dated 28.07.2022 (Annexure P-5), passed by the Principle Judge, Family Court Camp, at Derabassi, District SAS Nagar, Mohali, whereby application filed by the parties to waive off the statutory period of six months for recording second motion statements in the petition for mutual divorce under Section 13-B of the Hindu Marriage Act, 1955, filed by them, has been dismissed.

2. Notice of motion.

3. Mr. S. K. Bishnoi, Advocate has appeared and filed his *vakalatnama* on behalf of the respondent today in the Court, and supported the petition.

4. The facts of the case are, marriage between the parties was solemnized on 13.12.2002 as per Hindu rites and ceremonies at

Panchkula. It was second marriage of both the parties, as first marriage of each of them resulted in divorce. As differences between them cropped up, and would not get resolved, they started living separately since 26.04.2021. With the intervention of respectables of both the sides, a compromise deed was signed on 05.05.2002 (Annexure P-1) that marriage between them would be dissolved by filing a petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955.

5. In terms of the compromise, divorce petition under Section 13-B of the Act was filed before the Family Court on 05.05.2022. That day, first motion statements of both the parties were recorded, which are attached as Annexures P-2 and P-3 with the petition, and the case was adjourned to 10.11.2022 for recording of the second motion statements of the parties. At the time of first motion statements, the agreed amount was paid by the respondent-husband to the petitioner-wife. The remaining amount is to be paid at the time of second motion statements. Both the parties filed an application dated 26.05.2022 for waiving off the statutory period of six months for recording of the second motion statements. The cases filed by the parties against each other in different Courts, have either been withdrawn or process of being withdrawn in terms of the compromise. There are no chances of reconciliation and all efforts in that direction have failed.

6. The application for waiving off the statutory period of six months was dismissed by the Family Court vide order dated 28.07.2022 on the ground that nothing has come on record to show the

urgency involved in the case. Besides, no details of the cases filed by the parties against each other were said to have been placed on record, which could substantiate the plea that there was no scope for reconciliation.

7. It needs mention that the Supreme Court in '*Amardeep Singh vs. Harveen Kaur*', 2017 (8) SCC 746, has observed that the statutory period of six months mentioned in Section 13-B of the Hindu marriage Act can be waived as the same is not mandatory but directory.

8. The grounds on which the application seeking waiver of statutory period of six months has been dismissed are not relevant for the purpose. The parties have mutually agreed to end/withdrawn the litigation between them, and steps in that direction have already been taken. Both of them are mature enough to decide about their future. Besides, it is not disputed that parties have wilfully agreed to part-ways by filing the mutual divorce petition, in which both of them have appeared for the first motion and recorded their statements. It is also not in dispute that they have been living separately for long and attempts to bring about reconciliation between them have failed. All issues between them have been settled amicably.

9. On the above analysis, this Court is of the view that it is a fit case in which the statutory period of six months deserves to be waived by the Principal Judge, Family Court Camp, at Derabassi, District SAS Nagar, Mohali. The impugned order dated 28.07.2022 is,

therefore, set aside and the statutory period of six months is waived in terms of the law laid down by the Supreme Court in *Amardeep Singh's case (supra)*.

10. The revision petition is accordingly allowed and the parties are at liberty to approach the Principal Judge, Family Court Camp, at Derabassi, District SAS Nagar, Mohali, for advancement of the date for recording of second motion statements.

12.09.2022
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(TRIBHUVAN DAHIYA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No