

Harwinder Singh

...Petitioner No.1

versus

Parneet Kaur

....Petitioner No.2

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr.Vinod Kumar Kaushal, Advocate for the petitioners.

B.S. Walia, J. (Oral)

1. Prayer in the petition under Article 227 of the Constitution of India is for setting aside order Annexure P/1 dated 31.08.2022, passed by the learned Principal Judge, Family Court, Amritsar, whereby the joint application filed by the petitioner for waiving of statutory period for recording statement of the second motion has been declined, as also for preponing the date of hearing of the second motion statement fixed for 05.01.2023 to an earlier date.

2. Petitioners' marriage was solemnized on 07.02.2021, according to Sikh religious rites and ceremonies and after their marriage they resided as husband and wife for approximately one month i.e.uptill 21.03.2021, whereafter they started living separately on account of irreconcilable temperamental differences. Learned counsel contends that attempts by the well-wishers of the petitioners for reconciliation of differences between the petitioners could not be resolved and eventually the parties on the basis of agreement filed a petition under Section 13-B of the Hindu Marriage Act, 1955, before the learned Principal Judge, Family Court, Amritsar, on 04.07.2022. An application filed by the petitioners for

waiver of the statutory period of six months for recording of their statement on second motion was dismissed by the learned Principal Judge, Family Court, Amritsar vide order dated 31.08.2022 and the date for recording of second motion statement was fixed as 05.01.2023. Learned counsel contends that the petitioners were married on 07.02.2021, but have been residing separately since 21.03.2021, the petition under Section 13-B of the Hindu Marriage Act, 1955, was filed on 04.07.2022, both the petitioners are young and are desirous of resettling themselves and also wish to go abroad, therefore, the instant petition praying for setting aside of the impugned order and for waiver of six months statutory period for recording of second motion statement, in view of there being no chance of any reconciliation.

3. Learned counsel relies upon the decision of Hon'ble the Supreme Court in **Amardeep Singh vs. Harveen Kaur 2017 (4) RCR (Civil) 608**, as well as the judgment of a Coordinate Bench of this Court in CR-472-2021, decided on 03.03.2021, in case titled as Rohan Sethi vs. Radhima Chitkara. Learned counsel contends that the petitioners are firm of their resolve to part ways on account of irreconcilable differences and there being no chance of resolving the same, the parties have already filed a petition under Section 13-B of the Hindu Marriage Act, 1955 and statement of first motion was recorded on 04.07.2022, therefore, in the circumstances, the impugned order be set aside and statutory period of six months for recording of second motion statement be waived of, as the same would be an exercise of futility and would prolong the miseries of the petitioners.

4. After hearing learned counsel for the petitioners and in view of the decision of Hon'ble the Supreme Court in Amardeep Singh's case (supra) and the factual position as noted above i.e. of the parties having got married on 07.02.2021, residing separately since 21.03.2021, having filed a petition under Section 13-B of the Hindu Marriage Act, on 04.07.2022 as also got their first motion statement recorded on the said date, there being irreconcilable differences between the parties and no likelihood of the petitioners resolving the matter for living together, I am of the considered view that no useful purpose would be served by denying the prayer of the petitioners.

5. Accordingly, the instant petition is allowed, impugned order dated 31.08.2022, rejecting the joint application filed by the petitioners for waiving of statutory period of six months for recording second motion statement and adjourning the matter to 05.01.2023, is set aside and the waiver as prayed for granted. Parties are directed to appear before the learned Principal Judge, Family Court, Amritsar, by moving an appropriate application for preponing of the date of hearing from 05.01.2023 to any earlier date and the learned Principal Judge, Family Court, Amritsar, is directed to proceed thereafter in accordance with law preferably within two weeks thereafter.

6. Petition disposed of with the aforementioned directions.

(B.S. Walia)
Judge

28.09.2022
rajesh

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