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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Date of decision: May 29, 2023

Anuj Bansal

....Petitioner

versus

Priyanka Goyal

....Respondent

CORAM: HON'BLE MR. JUSTICE ARUN MONGA**Present:-** Mr. S.S. Momi, Advocate for petitioner.

ARUN MONGA, J. (ORAL)

Petition herein *inter alia* is for seeking direction to learned Family Court, Dera Bassi (Camp Court) to decide divorce petition i.e., HMA-19-2022 (Annexure P-1) filed by husband/petitioner for decree of divorce under Section 13 of the Hindu Marriage Act, 1955 (for brevity, 'the Act').

2. Averments are that petitioner and respondent got married as per Hindu Rites and ceremonies, on 22.01.2018. Out of said wedlock, no child was born. Due to matrimonial discord, respondent ultimately left her matrimonial home on 18.12.2019. Petitioner filed a divorce petition dated 17.01.2022 (Annexure P-1). Notice of the divorce petition was issued to respondent/wife.

2.1. On 07.04.2022, learned counsel for petitioner before learned Family Court filed an application under Order V Rule 20 of Code of Civil Procedure, 1908 (for short 'CPC') for seeking permission to effect service through substituted mode i.e., publication. Application was allowed vide order dated 07.04.2022 (Annexure P-2) and respondent was ordered to be summoned through publication.

2.2. On 14.07.2022, respondent was proceeded *ex parte*. Thereafter, case progressed for *ex parte* evidence of petitioner. On 02.03.2023, petitioner closed his

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evidence and case was fixed for 04.05.2023. On 04.05.2023, it was adjourned to 27.07.2023.

3. Learned counsel for petitioner refers to provisions of Section 21B (2) of the Act to contend that since the divorce petition was filed in the year-2022, therefore, the same ought to have been decided by now. He also submits that *ex parte* evidence of petitioner had also been closed vide order dated 02.03.2023 (Annexure P-5) and the matter is lying pending unnecessarily.

4. I have heard learned counsel for petitioner and perused the record.

5. The argument of closure of *ex parte* evidence on the face of it is as insipid as it can be, as the facts of the case speak for itself. Divorce petition was filed sometime in January-2022. Zimni orders appended with the revision shows that respondent was proceeded *ex parte* on 14.07.2022. Thereafter, matter is being adjourned from time to time for *ex parte* evidence on the request of counsel for petitioner before learned Family Court below. *Ex parte* evidence of petitioner has not been concluded on 02.03.2023, as is being projected by learned counsel for petitioner and matter was adjourned on the request of learned counsel for petitioner to 04.05.2023 and thereafter to 27.07.2023 vide order dated 04.05.2023 (Annexure P-6). Order dated 04.05.2023 (Annexure P-6), being relevant, is reproduced hereunder, for ready reference:

“No ex-parte evidence is present today. Ld. Counsel for the petitioner has requested for an adjournment. On request, present case stands adjourned to 27.07.2023 for entire ex-parte evidence. Long adjournment has been given as the undersigned has to hold Camp Court on every Wednesday and Thursday of each week and as the summer vacations will be commencing in the month of June w.e.f. 01.06.2023 to 30.06.2023.”

6. A perusal of the above order leaves no manner of doubt that assertions made in the instant petition are factually incorrect inasmuch as *ex parte* evidence of petitioner is still underway and it is the learned counsel for petitioner before

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learned Family Court, who is seeking adjournments for concluding the *ex parte* evidence.

7. Further, learned Family Court has given specific and cogent reason for adjourning the matter for a longer date on 04.05.2023. This Court would refrain to interfere and tread cautiously, unless it is a case of extreme hardship. The case in hand does not seem to be such so as to deserve any indulgence.

8. Over-emphatic reliance has been placed upon the provisions of Section 21B(2) of the Act, but the same is of no consequence to petitioner, given that the provisions are directory in nature and not mandatory, which is clear from a plain reading of the provision itself, which reads thus:

“(2) every petition under this Act shall be tried as expeditiously as possible and endeavour shall be made to conclude the trial within six months from the date of service of notice of the petitioner on the respondent.”

9. In the premise, no grounds worthy of interference are made out.
10. Dismissed.
11. Pending application(s), if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

May 29, 2023
mahavir

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