

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

FAO-M-301-2008 (O&M)
Date of Decision: June 01, 2023

Kishan Singh Appellant

Versus

Kulwant Kaur Respondent

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. K.S. Dadwal, Advocate for the appellant
Mr. Arun Bansal, Advocate for the respondent.

LISA GILL, J.

1. This appeal has been filed by the appellant – husband challenging judgment and decree dated 07.11.2008 passed by the learned Additional District Judge, Hoshiarpur whereby petition under Sections 13 of the Hindu Marriage Act, 1955 (for short – ‘the Act’) filed by the appellant – husband has been dismissed.

2. It is stated that marriage between the parties was solemnised on 21.11.1975. Dispute arose between them and they have been living separately since 06.10.2001. It is further stated that three children were born from this wedlock.

3. During pendency of this appeal, matter has been amicably resolved between the parties. It is submitted that both appellant and

respondent have decided to part ways as despite best efforts, resumption of matrimonial ties between them is not possible. It was agreed between the parties that a lumpsum amount of ₹2,50,000/- shall be paid by the appellant to respondent – wife towards all her claims and thereafter from 01.06.2023 onwards a sum of ₹16,000/- per month by 7th of each month shall be paid by the appellant with 2% increase per annum after every two years till death of respondent – wife or remarriage by her. The same shall be credited directly to her bank account No. 392502010013247, Union Bank of India, Hoshiapur. It is submitted that respondent has no objection in case lien, limited to this amount only, is created on his pension account. It is stated that respondent – wife has received cheque No. 134968 dated 17.05.2023 drawn on Union Bank of India for a sum of ₹2,50,000/- on 17.05.2023 and the same has been encashed. It is stated that all civil and criminal proceedings initiated by them stand withdrawn and in case any such proceeding is still pending, necessary steps for withdrawal of the same will be taken. Statements of parties in respect to settlement were recorded on 17.05.2023.

4. Prayer for conversion to petition under Section 13B of the Act is allowed and petition under Section 13B of the Act has been taken on record vide separate order of even date in CM-10224-CII-2023.

5. At request of parties and keeping in view the facts and circumstances of the matter, statements of the parties recorded on 17.05.2023 are treated as statements at first motion.

6. Parties present in Court, duly identified by their counsel, while reiterating their statements at first motion recorded on 17.05.2023, submit

that as they have been living apart since 06.10.2001 with resumption of matrimonial ties not possible between them and with the matter genuinely resolved, statutory period of six months for recording their statement at second motion be waived off. They rely upon the judgment of the Hon'ble Supreme Court in **Amardeep Singh Vs. Harveen Kaur, 2017(8) SCC 746**.

7. Keeping in view the given facts and circumstances where parties have not been able to live together since 2001 and there is complete disruption of marital relations, with no possibility of reconciliation between them despite earnest efforts for reconciliation, the marriage has broken irretrievably. Parties have genuinely settled their differences and the waiting period will only prolong their agony. The parties have, thus, made out a case for waiver of statutory period of six months. Period of six months in the given facts and circumstances is, accordingly, waived.

8. Statements of the parties at second motion have been recorded separately. Parties present in Court, reiterate their statement recorded on 17.05.2023 as well as their resolve to part ways. Appellant as well as respondent affirm and verify the averments in petition under Section 13B of the Act. It is stated that settlement has been arrived at out of their own free will and volition, without any pressure, coercion or undue influence from any quarter. It is prayed that their marriage solemnised on 21.11.1975 be dissolved.

9. It is apparent that despite best efforts, resumption of matrimonial ties between the parties, who have admittedly been living separately since 2001, is not possible. Settlement between the parties wherein they have resolved all their differences appears to be genuine. No

impediment in allowing the petition under Section 13B of the Act, is pointed out on record.

10. Keeping in view the facts and circumstances as above, judgment and decree dated 07.11.2008 passed by the learned Additional District Judge, Hoshiarpur, is set aside. Petition under Section 13B of the Act is allowed. Marriage solemnized between the parties on 21.11.1975 is hereby dissolved. In terms of the settlement of the applicant-husband before us, lien to the extent of wife's claim, as detailed, be created. It is clarified that lien is limited to the said extent only.

11. Appeal is, accordingly, disposed of.

12. Decree sheet be prepared, accordingly.

13. Pending application(s), if any, stand disposed of, accordingly.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

June 01, 2023

rts

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