

252

2023:PHHC:123838-DB

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CM-15387-CII-2023 in/and
FAO-4253-2023

Date of Decision:20.09.2023

Nachattar Singh

.....Applicant/Appellant

Vs

Kiranjeet Kaur

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH
HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present:Mr. Rajat Dogra, Advocate
for the applicant/petitioner.

Mr. Nishant Sehgal, Advocate,
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

CM-15387-CII-2023

The present appeal has been preferred by the appellant against the order dated 31.05.2023 passed by the Principal Judge, Family Court, Bathinda, dismissing the application for restoration of the joint petition under Section 13-B of the Hindu Marriage Act filed by the parties where first motion statements

of the parties have already been made and at the stage of second motion, the respondent-wife had resiled. On the willingness shown by the respondent-wife, an application was filed for restoration of the joint petition under Section 13-B of the Act and the same was dismissed on the ground that the petition was not dismissed in default rather the same was dismissed for want of consent of one of the parties and therefore, the petition could not be proceeded further.

Notice of motion was issued on 9.8.2023 for 12.12.2023. In CM-15387-CII-2023, notice was issued and the application was ultimately adjourned for today. Today, Mr.Nishant Sehgal Advocate, appears on behalf of the respondent and submits that he has no objection in case the date of hearing in the main case is preponed for today and the case be taken up today itself for final disposal of the case. In view of the consensus arrived at between the parties, date of hearing is preponed and main case is taken up today itself.

Main Case

Having heard the learned counsel for the parties, we find that there was a settlement between the parties, wherein the respondent-wife had already received an amount of Rs.7,00,000/- out of the total settled amount of Rs.14,00,000/-

towards her past, present and further alimony. First motion statements had already been recorded but at the stage of second motion, the respondent-wife withdrew her consent resulting in passing of the order dated 10.10.2022, thereafter, the respondent-wife gave her consent for recording her statement at the stage of second motion. The application filed for restoration of the joint petition under Section 13-B of the Hindu Marriage Act was dismissed vide the impugned order dated 31.05.2023.

Since, the parties have amicably resolved their differences, therefore, it would be just and appropriate to allow both the parties to record their statements at second motion stage of the joint petition under Section 13-B of the Act. The hyper technical view taken by the Principal Judge, Family Court, Bathinda needs to be set aside in the interest of justice. Since, both the parties have amicably resolved their differences and they have submitted to the jurisdiction of the Court in terms of Section 13-B of the Hindu Marriage Act and have undertaken to abide by the terms and conditions of the settlement, therefore, in view of the aforesaid, the impugned order dated 31.05.2023 is set aside. Joint petition under Section 13-B of the Hindu Marriage Act is hereby restored. Both the parties are directed to

2023:PHHC:123838-DB

appear before the Family Court on 28.09.2023. On their appearance, Family Court shall fix a date for recording the second motion statements of the parties in according with law.

(RAJ MOHAN SINGH)
JUDGE

(HARPREET SINGH BRAR)
JUDGE

20.09.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No