

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.125

Case No. : C. R. No. 4792 of 2023

Date of Decision : August 22, 2023

Baljit Kaur

.... Petitioner

vs.

Jagsir Singh

.... Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Inderjit Sharma, Advocate
for the petitioner.

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GURBIR SINGH, J. :

1. Prayer in the present revision petition filed under Article 227 of the Constitution of India is to set aside the impugned order dated 31.08.2022 (Annexure P-4), passed by learned Additional Principal Judge, Family Court, Bathinda (hereinafter referred to as – the Trial Court), whereby the application filed by the petitioner (Annexure P-2) has been dismissed.

2. Briefly, the facts of the present case are that the respondent has filed a petition under Section 12(1)(a) of the Hindu Marriage Act, 1955 (for brevity – the Act) (Annexure P-1) for dissolution of marriage by a decree of nullity.

3. As per version of the petitioner, the marriage took place about 35 years ago. Divorce petition was filed on the ground that the marriage has not been consummated as the petitioner was unable to perform marital obligation being abnormal lady.

4. Learned counsel for the petitioner has argued that earlier in the year 2005, the petitioner had filed an application under Section 125 Cr.P.C., for grant of maintenance, which was allowed but no such ground was taken in the said application by the respondent. Thereafter, she moved an application under Section 127 Cr.P.C., which was allowed vide order dated 12.07.2023 (Annexure P-5), but no such ground was taken therein.

5. It has further been argued that the petition filed by the respondent is barred by limitation and the learned Trial Court failed to take note of the same.

6. I have heard the submissions made by learned counsel for the petitioner and perused the case file.

7. The respondent has filed a petition under Section 12(1)(a) of the Act, for granting decree of nullity on the ground that the marriage has not been consummated owing to impotence of the petitioner. Learned Trial Court, relying on a Division Bench judgment of Orissa High Court in **Jagannath Muduli vs. Nirupama Behera – 2008 (14) RCR (Civil) 767**, held that no period of limitation has been specified for filing petition under Section 12(1)(a) of the Act.

8. No period of limitation has been specified for filing petition under Section 12(1)(a) of the Act, though sub-section (2) of Section 12 prescribes period of limitation so far as grounds (c) and (d) are concerned. Sub-section (2) of Section 12 has no application to the case in hand, which is governed by Section 12(1)(a) of the Act.

9. Accordingly, I do not find any infirmity in the order passed by

learned Trial Court. The present revision petition, being devoid of merit, is hereby dismissed.

10. Pending applications, if any, shall stand disposed of along with this judgment.

August 22, 2023
monika

(GURBIR SINGH)
JUDGE

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>