

FAO-M-95-2015

2023:PHHC:064443-DB
:1:

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

106+242

FAO-M-95-2015 (O&M)
Date of Decision: 03.05.2023

HARJINDER SINGH

... Appellant

VERSUS

KIRPAL KAUR @ KIRANPAL KAUR

....Respondent

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

Present: Mr. Hitesh Verma, Advocate
for the appellant.

Mr. Saurabh Kapoor, Advocate
for the respondent.

LISA GILL, J.(Oral)

1. This appeal has been filed by the appellant-husband challenging order dated 27.10.2014 passed by learned Additional District Judge, Sangrur whereby petition under Section 13 of Hindu Marriage Act, 1955 filed by the appellant-husband has been dismissed.

2. It is stated that marriage between the parties was solemnized on 01.03.2009. Dispute arose between them and they have been living separately since January 2010. It is further stated that one child was born from this wedlock.

3. It is submitted that during pendency of this appeal, the matter has been amicably resolved between the parties. It was agreed that a sum of Rs.10 lakhs would be deposited by the appellant in

favour of the minor son and the said amount would be converted into an FDR in favour of the minor son by the respondent till he attains the age of majority. Interest thereon would be used by the respondent-wife. It is agreed that the parties would seek divorce by mutual consent. Statements of the parties to this effect were recorded on 23.11.2022.

4. Petition under Section 13-B of the Hindu Marriage Act has been taken on record. Request of learned counsel for the parties that their statements recorded on 23.11.2022 be treated to be their statements at first motion, is accepted.

5. Appellant and the respondent, duly identified by their counsel are present in Court and they reiterate and verify the terms and conditions of the settlement. Respondent submits that a sum of Rs.10 lakhs has been transferred into the saving account of their son namely, Jobanpreet Singh. She states that the said amount shall be converted into an FDR which shall be maintained till the child attains majority and that photocopy of the FDR be submitted in the Court within next two weeks. Respondent states that petition under Section 13-B be allowed.

6. Parties, present in Court, while reiterating their statements at first motion recorded on 23.11.2022, submit that as they have been living apart since January 2010 and resumption of matrimonial ties not possible between them and the matter genuinely resolved, statutory period of six months for recording their statement at second motion be waived off. Reliance is placed on judgment of Hon'ble the

Supreme Court in *Amardeep Singh Vs. Harveen Kaur, 2017(8) SCC 746.*

7. Keeping in view the facts and circumstances of this case, it is evident that parties have not been able to live together since 2005 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 waived.

8. Statements of the parties at second motion have, accordingly, been recorded separately. Parties, present in Court, reiterate their statement recorded on 23.11.2022 as well as their resolve to part ways. Appellant as well as respondent also affirm and verify the averments in petition under Section 13B of the Act. Appellant and respondent state 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 solemnized on 01.03.2009 be dissolved.

9. It is apparent that despite best efforts, resumption of matrimonial ties between the parties, who have admittedly been living separately since January 2010, 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

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of the Act, is pointed out on record.

10. Keeping in view the facts and circumstances as above, judgment and decree dated 27.10.2014 passed by the learned Additional District Judge, Sangrur is set aside. Petition under Section 13-B of the Act is allowed. Marriage solemnized between the parties on 01.03.2009 is hereby dissolved.

11. Appeal is, accordingly, disposed of.

12. Decree sheet be prepared, accordingly.

13. Pending applications, if any, also stand disposed of accordingly.

**(LISA GILL)
JUDGE**

**(RITU TAGORE)
JUDGE**

03.05.2023

Rimpal

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