

FAO-7039-2018 (O&M)

206

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

**FAO-7039-2018 (O&M)**

**Date of decision: November 24, 2023**

Rajinder Singh

....Appellant

versus

Sandeep Pal Kaur

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH  
HON'BLE MR. JUSTICE SUMEET GOEL**

**Present:-** Mr. G.S. Jagpal, Advocate for appellant.

Mr. Rajesh Kumar Dhankar, Advocate for respondent.

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**SUDHIR SINGH, J. (ORAL)**

**CM-16759-CII-2022**

Application herein is for placing on record the copy of Transfer Deed dated 04.11.2022 as Annexure A-2.

2. For the reasons stated in application, same is allowed. Copy of Transfer Deed dated 04.11.2022 contained at Annexure A-2 is taken on record, subject to all just exceptions.

**CM-14432-CII-2023**

Application herein is for placing on record the copy of settlement/ compromise dated 04.07.2023 as Annexure A-3.

2. For the reasons stated in application, same is allowed. Copy of settlement/ compromise dated 04.07.2023 contained at Annexure A-2 is taken on record, subject to all just exceptions.

**CM-14433-CII-2023**

Application herein is for converting the main appeal for dissolution of marriage under a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act').

**FAO-7039-2018 (O&M)**

2. Learned counsel for the applicant-appellant submits that pursuant to the directions of this Court passed on 12.05.2023, parties had appeared before the Mediation and Conciliation Centre of this Court, and a settlement/compromise dated 04.07.2023 (Annexure A-3) has been arrived at between the parties. They have decided to part ways on the terms and conditions contained in the said settlement/compromise.

3. For the reasons stated in application, same is allowed. Main appeal is ordered to be treated as petition under Section 13-B of the Act.

**Main case (O&M)**

Vide judgment and decree dated 20.10.2018 passed by the learned District Judge, Family Court, Barnala, the petition filed by the petitioner-husband seeking divorce under Section 13 of the Act, was dismissed.

2. Learned counsel for the petitioner submits that marriage between the parties was solemnized on 18.01.2011 according to Hindu rites and ceremonies and out of the said wedlock, one child was born.

3. It is worth noticing that during pendency of the present petition, vide order dated 12.05.2023, on the joint request made by learned counsel for the parties, the matter was referred to the Mediation and Conciliation Centre of this Court for an amicable settlement between the parties. The Mediator has submitted a report dated 04.07.2023 that the matter stands settled between the parties.

4. Both the learned counsel have filed the respective affidavits of the parties in the Court by way of CM-14434-CII-2023. The same are taken on record.

5. From bare perusal of the record, it appears that the parties have been living separately since March 2016. Learned counsel for the parties pray for waiving off the cooling period.

FAO-7039-2018 (O&M)

6. Considering the factum of compromise between the parties, application i.e., CM-14435-CII-2023 is allowed, and the cooling/ statutory period of 06 months is hereby waived off.

7. The terms and conditions as contained in para No.7 of the settlement/compromise dated 04.07.2023 arrived at between the parties, would read as under:-

“i) *The parties have mutually agreed to part their ways by getting a decree of divorce against each other on the basis of mutual consent. In this direction both the parties have agreed to move an application before this Hon'ble Court for converting the present FAO 7039 of 2018 into a petition under Section 13-B of the HMA for granting of decree of divorce.*

OR

*If the Hon'ble High Court chooses not to convert the present appeal into a petition under Section of HMA and directs the parties to approach the appropriate Family Court that in that eventuality both the parties would move a joint petition under Section of the HMA Act before the Family Court at Barnala for grant of divorce against each other on the basis of mutual consent within a period of one month from the passing of the order by the Hon'ble High Court in the present FAO 7039 of 2018.*

ii) *That both the parties have agreed to settle their entire dispute and get decree of divorce on the basis of mutual consent for a total sum of Rs.18,00,000/- (Eighteen Lakh Only) as full and final settlement as an alimony/maintenance to both the second party - Sandeep Pal Kaur as well as her minor daughter - Puneet Sharma in a equal share i.e. Rs. 9 Lakh each and in this direction the first party Rajinder Pal Singh has already been deposited in the shape of FDR in the account no. 87670100013769 opened in the name of minor - Puneet Sharma under the guardianship of her mother Sandeep Pal Kaur in the Punjab Gramin Bank sponsored by Punjab National Bank, Branch Barnala. (Photocopy of the same is enclosed herewith). Further the second party namely - Sandeep Pal Kaur i.e mother of the minor Puneet Sharma shall not be entitled to encash the abovesaid FDR pre-maturity or before the date of majority i.e 09.11.2023.*

iii) *It is further agreed between the parties that for the rest of the amount of Rs.9,00,000/- (Rupees Nine Lakhs) the same shall be paid by the first party to the second party in the form of demand draft in favour of Sandeep Pal Kaur in this Hon'ble Court itself on the day this Hon'ble Court agrees to convert and pass the decree of divorce in the HMA. OR if this Hon'ble Court directs the parties to file petition under Section 13-B of HMA then in that eventuality a sum of Rs.4,50,000/- (Four Lakh Fifty Thousand Only) shall be paid on the first motion and the rest of*

FAO-7039-2018 (O&amp;M)

*the Rs.4,50,000/- (Four Lakh Fifty Thousand Only) shall be paid by the first party to the second party on the second motion/final statement made in the Family Court at Barnala.*

*The custody of the minor girl child namely, Puneet Sharma shall remain with the second party i.e. Sandeep Pal Kaur-mother till she attains the age of majority.*

- iv) *That both the parties have agreed stating that during the course of proceedings in this Hon'ble Court, the first party had agreed to transfer one acre of land in village Saidoke Tehsil Nihal Singh Wala District Moga in the name of minor child Puneet Sharma daughter of the parties to settle the dispute and in this direction the father of first party - Rajinder Singh namely, Puran Singh did transferred one acre of land in the name of minor Puneet Sharma by executing the necessary deed dated 04.11.2022 (Photocopy enclosed). However, now while compromising the first party refused to accept the arrangement of transfer of land and agreed to settle the dispute only by way of cash as detailed above. Thus, now the second party namely, Sandeep Pal Kaur as guardian of minor Puneet Sharma has agreed and undertakes to extend every help to give her consent and to come present before the sub-Registrar on the day fixed in order to revert back one acre of land to Sh. Puran Singh which was earlier transferred in the name of minor Puneet Sharma. It has been further agreed that if the need be then the first party or his father - Puran Singh may make a application for passing of a specific order for the retransfer of one acre land in the name of Puran Singh.*
- v) *That the second party shall withdraw all her cases filed by her against the first party or her in-laws as detailed and mentioned above."*

8. In compliance to the terms of the aforesaid settlement, a demand draft bearing No.240121 dated 24.11.2023 for an amount of Rs.9,00,000/- as balance amount has been handed over by learned counsel for the appellant to the counsel for the respondent, for further being handed over to the respondent. Copy of the said demand draft has been supplied and the same is taken on record.

9. In view of the settlement/compromise effected between the parties, present petition is allowed and judgment and decree dated 20.10.2018 passed by learned District Judge, Family Court, Barnala, is set aside. The marriage between the parties is dissolved by a decree of divorce by way of mutual consent.

10. However, it is clarified that the parties shall remain bound by the terms and conditions of the aforesaid settlement/ compromise, which shall form part of the decree.

FAO-7039-2018 (O&M)

11.
- Decree sheet be drawn accordingly.
12.
- Pending application(s), if any, shall stand disposed of.

(SUDHIR SINGH)  
JUDGE

(SUMEET GOEL)  
JUDGE

November 24, 2023  
mahavir

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No