

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

**FAO-M-255-2018 (O&M)
Date of Decision: 15.03.2023**

**BHUPINDER KUMAR
&**

..... Appellant/Petitioner(s)

KULBIR KAUR

..... Respondent(s)

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

Present: Ms. Neha Jain, Advocate
for the appellant/petitioner.

Mr. T.P.S Bawa, Advocate and
Mr. Navin Saini, Advocate
for the respondent.

LISA GILL, J.

This appeal has been filed by the appellant-husband challenging judgment and decree dated 08.05.2018, passed by learned Additional District Judge, SAS Nagar (Mohali), whereby petition under Section 13 of Hindu Marriage Act, 1955 (hereinafter referred to as 'the Act'), filed by him was dismissed.

Learned counsel for the parties submit that during pendency of this appeal, parties have amicably resolved the entire dispute between them. It is submitted that differences had arisen between them and they are living separately since September, 2014. They have now decided to part ways. They seek dissolution of their marriage solemnized on 05.06.1996.

Appellant and respondent, duly identified by their counsel are present in Court. Both of them reiterate that matter has been amicably resolved. It is stated that Plot No.193, Sector 116, Mohali, measuring 06

Marlas has been transferred in the name of their major son Harmanpreet Singh and House No.2349, Sector 66, Mohali - LIG, Ground Floor has been transferred in favour of the respondent - wife namely Smt. Kulbir Kaur as full and final settlement of all their claims - past, present and future and parties agree to seek divorce by mutual consent. It is further stated that the respondent-wife had received sum of ₹8,50,000/- earlier when a petition under Section 13-B of the Act had been filed, though the matter had not fructified at that time.

Application for conversion of the petition to one under Section 13-B of the Act has been allowed vide separate order of even date. It is submitted that their statements recorded before co-ordinate Bench on 06.12.2022 be treated to be their statements at first motion.

Ordered accordingly.

Parties present in Court reiterate the terms and conditions of the agreement as detailed in the petition under Section 13-B of the Act. Both of them submit that they have been living separately since September, 2014 and there is no possibility of resumption of matrimonial ties between them despite best efforts and that there is no impediment to allow the petition under Section 13-B of the Act. It is submitted that they shall remain bound by the settlement and not initiate any proceedings – civil or criminal against each other or their family members in respect to the matrimony. No other proceedings, it is stated, are pending between them

Appellant and respondent seek waiver of statutory period of six months for recording their statements at second motion as it is submitted that there is no possibility of their cohabiting together and would only prolong agony of the parties. It is submitted that parties have been living separately

since September, 2014 and there is no possibility of resumption of matrimonial ties between them. In support of this assertion, reliance has been placed upon the judgment of the Hon'ble Supreme Court in **Amardeep Singh Vs. Harveen Kaur, 2017(8) SCC 746**, wherein the Hon'ble Supreme Court has held that the Court in case of there being no hope for bringing together the parties with parties being unable to live with each other in future, the said mandatory period can be waived off.

In the light of the above and keeping in view the judgment passed by the Hon'ble Supreme Court in **Amardeep Singh's** case (supra), this Court is satisfied in the light of the facts and circumstances of the present case that parties have not been able to live together since September, 2014 and there has been complete disruption of marital relations. With no possibility of reconciliation between them despite earnest efforts for reconciliation, marriage has broken irretrievably. Parties have genuinely settled their differences and waiting period will merely prolong their agony. Parties have thus made out a case for waiver of statutory period of six months.

Accordingly, their statements at second motion have been recorded separately today. Both the parties while reiterating their statements at first motion, recorded on 06.12.2022, submit that they have agreed to part ways on terms and conditions of the settlement as detailed in the petition under Section 13-B of the Act out of their own free will and volition, without any kind of pressure, coercion or undue influence from any quarter and that they shall remain bound by the terms and conditions of said Agreement.

It is a matter of record that the parties are living separately since the September, 2014 and despite earnest efforts all attempts for reconciliation

and resumption of matrimonial ties have failed. There is indeed no possibility of the parties resuming matrimonial ties. They have settled the dispute and no impediment in allowing the petition under Section 13-B of the Act has been pointed out.

Keeping in view the facts and circumstances, judgment and decree dated 08.05.2018, passed by learned Additional District Judge, SAS Nagar (Mohali), is set aside. Petition under Section 13-B of the Hindu Marriage Act, 1955 is allowed. Marriage solemnized between the parties is dissolved by way of mutual consent under Section 13-B of the Act. Parties shall remain bound by the terms and conditions of the agreement as detailed in the petition under Section 13-B of the Act. Appeal is disposed of accordingly. Decree sheet be prepared accordingly.

Pending miscellaneous applications, if any, stand disposed of accordingly as well.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

15.03.2023

Sunil

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