

121 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CR-5678-2023
DECIDED ON: 09.10.2023

RAVINDER SINGH YADAV

.....PETITIONER

VERSUS

PREETI

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL.

Present: Mr. Ajay Kumar Dahiya, Advocate
for the petitioner.

VIKRAM AGGARWAL, J (ORAL)

1. Prayer in the present revision petition is for setting aside the order dated 23.08.2023 (Annexure P-5) passed by the Principal Judge, Family Court, Rewari vide which the application filed by the petitioner for waiving off the stipulated period of six months in a petition filed under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'Act'), for the grant of divorce by way of mutual consent has been dismissed.

2. The facts, as emanating from the revision petition, are that the petitioner moved a petition under Section 13-B of the Act (Annexure P-1) for dissolution of their marriage by way of a decree of divorce with mutual consent. The first motion statement was recorded on 04.07.2023 (Annexure P-2)

3. An application was moved for waiving off the statutory period of six months which was rejected by the Family Court, Rewari vide order dated 02.08.2023 (Annexure P-3) on the ground that the application was not supported by an affidavit and that at times, the waiting period proves to be a healer of grievances of the parties. A second application for waiving off the said period (Annexure P-4) was moved, which has also been dismissed by the

Family Court, Rewari by way of the impugned order dated 23.08.2023 holding that there was no substantial change in the circumstances and that the second application amounts to misuse of the process of law.

4. I have heard learned counsel for the petitioner.

5. Learned counsel for the petitioner has submitted that in view of the law laid down by the Hon'ble Apex Court in the case of '**Amardeep Singh Vs. Harveen Kaur**', 2017 (4) RCR (Civil) 608, the Family Court should have waived off the statutory period of six months as envisaged under Section 13-B of the Act. It has been submitted that the conditions laid down by the Hon'ble Apex Court are duly fulfilled in the present case.

6. I have considered the submissions made by learned counsel for the petitioner.

7. The Supreme Court of India examined the issue in the case of '**Amardeep Singh Vs. Harveen Kaur**' (supra). It was held by the Hon'ble Apex Court as under:-

"18. Applying the above to the present situation, we are of the view that where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13B(2), it can do so after considering the following :

i) the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself;

ii) all efforts for mediation/conciliation including efforts in terms of Order 32A Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;

iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending

issues between the parties;
iv) the waiting period will only prolong their agony.”

Without commenting further on the merits of the case, the present revision petition is disposed of with liberty to the petitioner to move another application for waiving off the statutory period of six months before the Family Court at Rewari. In the event of such an application being moved, the Family Court, Rewari shall decide the same in accordance with the ratio laid down by the Hon’ble Apex Court in the case of ‘**Amardeep Singh Vs. Harveen Kaur**’ (supra). It is expected that the Family Court, Rewari shall take a pragmatic view of the matter and accordingly decide the case as per law.

09.10.2023
Prince Chawla

(VIKRAM AGGARWAL)
JUDGE

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