

2023:PHHC:157354-DB

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

FAO-6390-2023 (O&M)
Reserved on : 30.11.2023
Pronounced on: 07.12.2023

Sukhwinder Kaur

... Appellant

Versus

Harmanjeet Singh

... Respondent

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

Present: Mr. Ravi Gakhar, Advocate for the appellant.

Mr. Gurpreet Jayia, Advocate for the respondent.

SUDHIR SINGH, J.

Prayer in the instant appeal is for setting aside the judgment and decree dated 03.05.2023 passed by the Principal Judge, Family Court (Camp Court), Kharar, whereby the petition under Section 13-B of the Hindu Marriage Act (for short 'the Act') filed by the parties, was accepted and marriage between them was dissolved by a decree of divorce by mutual consent.

2. Brief facts of the case are that marriage between the parties was solemnized on 01.12.2019 according to Sikh rites and ceremonies at Village Chaura, Tehsil and District Patiala. Out of the said wedlock, no child was born. Owing to some temperamental differences and medical condition of the appellant, the parties decided to part their ways. Before filing the divorce petition, the parties had been living separately since 01.08.2021. They filed a petition under Section 13-B of the Act

and as noticed above, vide judgment and decree dated 03.05.2023, the Principal Judge, Family Court (Camp Court), Kharar accepted the same and dissolved the marriage by a decree of divorce by way of mutual consent.

3. Learned counsel appearing for the appellant-wife contends that post grant of decree of divorce by mutual consent, the parties, have reconciled and now they want to live together as husband and wife and in this regard, they have arrived at a settlement dated 25.09.2023 (Annexure A-23/T). While placing reliance upon **Jyoti Vs. Neeraj Kumar Saini, (2019) 1 RCR (Civil) 748**, it is contended that the controversy involved in the present case is squarely covered by the said judgment.

4. Notice of motion.

5. Mr. Gurpreet Jayia, Advocate, accepts notice on behalf of the respondent-husband and does not dispute the aforesaid factual position.

6. We have heard the learned counsel for the parties and have also gone through the paper book.

7. It is stand of the parties in the appeal that they have committed a mistake by obtaining the decree of divorce and now they intend to live together as husband and wife. It is their further case that now they have decided to live together and in this regard, they have effected a settlement dated 25.09.2023

8. In Jyoti's case (supra), while granting similar relief, a Division Bench of this Court, has held as under:-

“We have heard learned counsel for the parties to the lis and perused the available record.

It is needless to mention that a duty is cast on the Court to make all endeavors for reconciliation between the parties. Perhaps, for this reason, it is provided under Section 13-B of the Act that a petition cannot be filed until and unless both the parties are living separately for one year and more and six months' cool off period is provided for the parties to rethink about their decision to get separated by way of decree of divorce as it has been found that sometime such a drastic decision is taken by the husband and wife out of their charged emotions for which they repent throughout their lives.

We are happy that in the present case, both the husband and wife have approached this Court for correcting their mistake not only because they have found that their decision was not good for themselves but also realized that by getting divorce they will be depriving the love and affection of both the father and the mother to their only child.

Thus, in these peculiar facts and circumstances, when both the parties have forgiven each other and have decided to live together for a better future for the family which includes Vedanshi, this Court is of the view that it is never late to mend and therefore, we allow this appeal and set aside the judgment and decree dated 29.11.2018 by which marriage of the appellant was dissolved.”

9. In view of the above, the present appeal is allowed and judgment and decree dated 03.05.2023 passed by the Principal Judge, Family Court (Camp Court), Kharar, vide which marriage of the parties was dissolved, is set aside; the marriage between the parties is restored and the parties are allowed to live with each other as husband and wife.

[SUDHIR SINGH]
JUDGE

07.12.2023
vishnu

[SUMEET GOEL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No