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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4747 OF 2024

1. Pratik Rajendra Kutte
Age – 33 years, Occ-Business,
R/at – B- 302, B-wing, Kapil
Abhijaat, Dahanukar Colony,
Kothrud, Pune – 411 038.

2. Mrs. Sanjana Pratik Kutte
Before Marriage – Ms. Sanjana
Sajeed Patil, Age – 28 years,
Occ- Interior Designer,
R/at Sangeet Bungalow, Hasara
Chowk, Jineshwar Colony, Dhamni
Road, Sangli 416415

.....Petitioners

Vs.

State of Maharashtra Through Law and
Judiciary Dept. Hutatma Rajguru Chouk,
Madam Cama Rd, Mantralaya,
Mumbai 400 032

.....Respondents

Dr. Warunjikar a/w Ms. Sakshi Inamdar a/w Ms. Gargi Warunjikar a/w
Mr. Aditya Kharkar i/b Mr. Sumit S. Kate for the petitioners
Mr. Pratik Kutte petitioner no.1, present in person
Ms. Sanjana Kutte Petitioner no. 2, present in person

CORAM : GAURI GODSE, J.

DATE : 19th JUNE 2024

ORAL JUDGMENT:

1. Heard. Rule. Rule made returnable forthwith. Taken up for final disposal.
2. This petition takes exception to the order passed by the Family Court on 13th March 2024, rejecting the petitioners' application for a waiver of the cooling-off period provided under section 13-B(2) of the Hindu Marriage Act 1955 ("the said Act").
3. The petitioners got married as per Hindu rituals on 4th July 2022 at the Art of Living Ashram in Bengaluru, in the presence of only family members. The parties started residing together in Pune. However, there were differences between the parties, and they started having disputes. They found themselves to be incompatible. Hence, though residing under the same roof, they separated on 30th November 2022 and started living separately. It is the petitioners' case that only under the family pressure, they continued to reside under the same roof, but they have been living separately since 30th November 2022. It is further the case of the petitioners that at the insistence of their family

members and societal pressure to disclose their marriage to other relatives and friends, the parties conducted a garland ceremony followed by a reception on 4th July 2023 at Sangli.

4. The petitioners have contended that they continued to reside under the same roof thereafter. However, they never cohabitated as husband and wife. Ultimately, they even started residing separately since 20th October 2023. Thus, according to the petitioners from 20th October 2023, petitioner no. 1 continued to reside at Pune; however, petitioner no. 2 started residing at Sangli.

5. Considering the differences between the parties, they decided to apply for dissolution of their marriage by mutual consent. Hence, on 1st February 2024, the parties filed an application under section 13-B (1) of the said Act in the Family Court at Pune. Thereafter, on 16th February 2024, the parties applied for a waiver of the cooling period of six months by making an application under sub-section (2) of section 13-B of the said Act. The petitioners requested to waive the waiting period of six months on the grounds that there was no possibility of reconciliation, and they had decided to separate as they were unable

to resolve their differences and disputes. The petitioners reiterated in their application for waiver that they resided under the same roof till 20th October 2023, only under family pressure. They reiterated that though residing under the same roof, they were living separately from 30th November 2022 and thereafter, even started residing separately from 20th October 2023. The said application was heard by the learned Judge of the Family Court at Pune and by the order impugned in this petition, the application was rejected.

6. The learned Judge rejected the application on the ground that the application was casually filed as a matter of right without giving any sufficient and reasonable grounds. The learned Judge referred to the legal principles settled by the Hon'ble Supreme Court in the case of *Amardeep Singh Vs Harveen Kaur*¹. Thus, considering the reasons given in the application for waiver, the learned judge found that the reasons were not satisfactory and thus, for want of sufficient and reasonable grounds, the application for waving of the period of six months was rejected. Hence, the present petition.

¹ (2017) 8 SCC 746

7. Considering the request made on behalf of the petitioners, the present petition was taken up for final disposal. The parties are present before me today. I had made queries with regard to the ceremony being performed again on 4th July 2023. In response to the query made, the petitioners have tendered a joint affidavit dated 19th June 2024 stating that they performed the ceremony on 4th July 2023 only under the pressure of their family. In the affidavit, the petitioners have reiterated their grounds raised in the divorce petition thereby stating that they started living separately from 30th November 2022, though they were residing under the same roof. The affidavit is taken on record and marked 'X' for identification with today's date.

8. I have interacted with the petitioners. Both the petitioners clarified that the ceremony performed on 4th July 2023 was only due to family pressure so that they could disclose to friends and relatives about their marriage solemnized on 4th July 2022. The petitioners have reiterated their stand that they are unable to sort out their differences and, hence, have taken a conscious decision to separate. They submitted that despite making several efforts, they were unable to

reconcile their differences and were never able to share any emotional bond to continue with the relationship. Both the petitioners stated before me that reconciliation is not possible, and the pendency of the petition is causing mental agony; hence, they requested to waive off the period of six months as contemplated under the said Act and pass orders for the dissolution of marriage.

9. On interaction with the petitioners and considering their reasons stated in the application before the Family Court as well as in the present petition, I am satisfied that the parties are unable to reconcile and have, therefore, decided to separate. In view of the order rejecting the application for waiver, the petitioners' application under section 13-B(1) for dissolution of their marriage has remained pending before the Family Court. Considering the aforesaid, I am satisfied that the petitioners are entitled to waiver of the waiting period of six months provided under section 13-B(2) of the said Act.

10. To avoid further loss of time, I am not inclined to relegate the parties again to the Family Court for passing the order on the main application under section 13-B (1). Petitioner no. 1 is 33 years old, and

petitioner no. 2 is 28 years old. The petitioners have informed me that they both are well-settled in their independent professions. I am satisfied that there is no possibility of any reconciliation. Hence, considering the facts of the case, I find it appropriate to take a pragmatic view and not send the parties to the Family Court only for the purpose of passing a final order. If only for a technical purpose, the parties are relegated to the Family Court, the very object of making an application for dissolution of marriage under section 13-B(1) and the application for a waiver under section 13-B(2) would be frustrated.

11. Hence, I find it fit to exercise the jurisdiction under Article 227 of the Constitution of India to correct the impugned order by waiving the waiting period and also pass further orders for the dissolution of the marriage. Hence, for the reasons stated above, the following order is passed.

ORDER

I. The impugned order dated 13th March 2024 passed below Exhibit 9 in Petition No. F. 275 of 2024, passed by the learned Judge of the Family Court at Pune, is

quashed and set aside.

II. Application at Exhibit 9 in Petition No. F. 275 of 2024, filed before the Family Court at Pune, for a six-month waiver under section 13-B(2) of the Hindu Marriage Act, 1955, is allowed, and the six-month waiting period is waived.

III. The application for dissolution of marriage under section 13-B of the said Act in Petition No. F. 275 of 2024, filed before the Family Court at Pune, is allowed.

IV. The marriage solemnized between the parties on 4th July 2022 is dissolved.

V. The Family Court at Pune shall draw a decree for divorce in terms of the dissolution of marriage granted by this order.

VI. The concerned Judge of the Family Court at Pune shall issue necessary directions for drawing up the decree in terms of this order upon the production of a

certified copy of this order without insisting on the parties' presence.

VII. The writ petition is allowed in the aforesaid terms.

12. Rule is made absolute in the above terms.

[GAURI GODSE, J.]

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