



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

124

**FAO-1559 of 2021 (O&M)
Date of Decision: 29.08.2024**

Harshvinder Kaur

..... Appellant

Versus

Rajinder Singh

..... Respondent

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA**

Present: Mr. Bhisham Kinger, Advocate for the appellant.

Mr. Kanishk Swaroop, Advocate for the respondent.

SURESHWAR THAKUR, J (ORAL)

CM-4322-CII-2024

The instant application has been filed under Section 151 CPC for conversion of the petition filed under Section 13 of Hindu Marriage Act, 1955 into a petition under Section 13-B of the Hindu Marriage Act, 1955, thus for grant of divorce by way of mutual consent.

For good and valid reasons recorded in the application, besides in view of the compromise/settlement arrived at between the parties, this Court allows the instant application and accordingly converts the Hindu Marriage petition cast under Section 13 of Hindu Marriage Act, thus into a petition under Section 13-B of the Hindu Marriage Act.

FAO-1559 of 2021

1. The instant appeal is directed against the declining verdict passed on 04.03.2020, upon, HMA No.196 dated 31.05.2019 by the learned Principal Judge, Family Court, Barnala. During the pendency of the instant appeal, the Power of Attorney of the appellant appeared, and the respondent, also



personally appeared before this Court and made their respective testification(s).

The said testification(s) are ad verbatim extracted hereinafter.

“Statement of Parmvir Kaur wife of Harwinder Singh, resident of Balloke, Tehsil Tapa, District Barnala

On Oath

Stated that I am mother of the appellant and has filed the instant appeal as an Attorney of my daughter i.e Harshvinder Kaur, the appellant in the instant appeal. Photocopy of the Power of Attorney executed in my favour by my daughter has been appended with the FAO and the same is exhibited as Ex. P-1 the photocopy and undertake that within a week from today, I shall file the original Power of Attorney in the Registry of this Court. The settlement is about the matrimonial dispute which arises amongst my daughter and her husband-Rajinder Singh-respondent in the instant appeal. The matter has been settled. The settlement deed drawn in the above regard is Ex.P-2 and I identified my signatures respectively at points 'A' 'B', 'C' 'D' and 'E' as Power of Attorney of my daughter. I pray that in terms of the settlement deed, the instant appeal be permitted to be allowed but only after allowing the application filed under Section 151 CPC seeking conversion of the petition filed under Section 13 of the Hindu Marriage Act into 13-B of the said Act. Accordingly, a mutual decree for segregating the matrimonial union entered into inter se my daughter with the respondent, be passed. I also pray that this Court may in terms of the long non cohabitation as husband and wife may be permitted to waive of the statutory period of six months since making of the first statement.

Statement of Rajinder Singh son of Charan Singh, resident of Sehna, Tehsil Tapa, District Barnala

On Oath

Stated that I have heard the statement of Power of Attorney holder of my wife-Harshvinder Kaur, the appellant in the instant appeal. The settlement deed drawn is Ex.P-2 and I identify my signatures respectively at points 'F', 'G', 'H', 'I' and 'J'. In terms of the settlement, the present petition filed under Section 13 of the Hindu Marriage Act may be converted into a petition under Section 13-B of the said Act.



Accordingly, a mutual decree for segregating the matrimonial union entered into inter se me with the appellant-wife, be passed. I also pray that this Court may in terms of the long non cohabitation as husband and wife may be permitted to waive of the statutory period of six months since making of the first statement. I shall abide by all the terms and conditions as mentioned in Settlement Deed Ex. P2”.

2. After converting the present petition under Section 13 of Hindu Marriage Act, 1955 into a petition under Section 13-B of Hindu Marriage Act, and with the parties living separately since long, thereupons the statutory period of six months commencing from the makings of the instant first motion statement, thus also becomes waived.
3. Therefore, this Court in terms of the statements (supra), thus proceeds to annul their marital ties through the passing of a decree of mutual consent. All other terms and conditions as occur in the respectively made statements, on oath shall be abided by the parties at contest.
4. The present appeal is accordingly disposed of and a decree sheet be drawn in terms of the settlement (Exhibit P-2) and in terms of the statement made by the Power of Attorney of the appellant, and, by the respondent at lis. The Registry is directed to prepare the decree sheet accordingly. The statements of the parties and the settlement/compromise (Exhibit P-2) be made part of the decree sheet.
5. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

29.08.2024
D.Bansal

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