

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO-M-2646-2024 (O & M)
Reserved on: 17.07.2024
Pronounced on: 26.07.2024

SIMRANJEET SINGH VIRDI
.....Appellant
Versus
NAVNEET KAUR
....Respondent

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

Argued by: Mr. Deepak Singh Saini, Advocate
for the appellant.
Ms. Parul Saini, Advocate
for the respondent.

SURESHWAR THAKUR, J.

1. One Simranjeet Singh Viridi/appellant-husband herein filed a Hindu Marriage petition No. HMA/809/2024, before the learned Family Court, Faridabad, for dissolution of his marital ties with his wife one Navneet Kaur, through a decree in the said regard becoming passed. The said petition was filed under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as 'the HMA'). The petition (supra) was accompanied by an application filed under Section 14 of the HMA rather for waiving off the mandatory period of one year, thus for making the above petition to be maintainable, as no apposite petition before the elapsing of one year from the date of solemnization of marriage rather is maintainable.

2. Through a decision made, on 09.05.2024, on the petition

(supra), the said petition became dismissed along with the application, as became filed under Section 14 of the HMA.

3. The declining order made on the aforesaid petition, thus led the appellant-husband to make an appeal thereagainst, through his instituting the instant appeal before this Court.

4. Through the settlement deed dated 01.05.2024, the estranged married couple has amicably resolved their marital differences. Resultantly, therebys in terms of Section 14 of the HMA, provisions whereof becomes extracted hereinafter, thus exceptional hardship would become aroused rather in case the said leave is declined.

“14. No petition for divorce to be presented within one year of marriage.—(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, 4 [unless at the date of the presentation of the petition one year has elapsed] since the date of the marriage:

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented [before one year has elapsed] since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the condition that the decree shall not have effect until after the [expiry of one year] from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after [expiration of the said one year] upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the [expiration of one year] from the date of the marriage, the court shall have regard to the

interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the [said one year].”

5. The learned Family Court concerned, in a most slipshod and ill informed manner proceeded to irrevere the said settlement deed, as became executed, thus to beget an amicable resolution of their marital differences, thereupons despite the above constituting an exceptional hardship, or thus being manifestative of an exceptional hardship rather encumbering the estranged married couple, in case the said relief is denied, yet reiteratedly the discretion statutory vested in the learned Family Court concerned, became not validly exercised.

6. Moreover, the only ground for irrevering the settlement deed (supra), could be raised but post the espoused leave being granted, thus imperatively, at the time of the makings of the first statement(s) by the estranged married couple, but with allegations therein, that the said settlement deed was fictitiously drawn or became obtained through misrepresentation of fraud.

7. Thereupon, in case the said allegation became proved yet the learned Family Court concerned, became empowered to pronounce a decree but subject to the condition that the decree shall not have effect until after the (expiry of one year] from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after [expiration of the said one year] upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

8. Since therebys any apprehension vis-a-vis the settlement deed being fictitiously drawn would become allayed. Therefore, in the

learned Family Court concerned, at the very inception declining the espoused relief to the estranged married couple despite both amicably resolving their marital differences besides when therebys, unless the said leave becoming granted rather exceptional hardship would accrue to the estranged couple, rather has committed a gross illegality or a material impropriety.

9. Consequently, after quashing and setting aside the impugned order, the instant appeal is allowed. The learned Family Court concerned, is directed to restore the Hindu Marriage petition, as became cast under Section 13-B of the HMA to its original number and is directed to summon the estranged married couple to respectively appear before him for theirs recording their respective first motion statements. Moreover, the learned Family Court concerned, is also directed to consider waiving off the statutory period of 6 months, thus commencing from the date of theirs making the first motion statement, upto theirs making the second motion statement, whereafters, he may pass a lawful consent decree thus segregating their marital knot.

10. Disposed of accordingly.

11. Pending miscellaneous application(s), if any, stand(s), disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

26.07.2024

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