

2024:PHHC:131234-DB



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

**FAO-M-252-2015 (O&M)**  
**Date of decision: 27.09.2024**

Dinesh Kumar Dagar

....Appellant

versus

Smita Dagar

....Respondent

**CORAM: HON'BLE MR. JUSTICE SUDHIR SINGH**  
**HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

**Present:-** Mr. Hitesh Pandit, Advocate,  
for the appellant.

Mr. Sanyam Malhotra, Advocate,  
for the respondent.

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**SUDHIR SINGH, J. (ORAL)**

**CM-9524-CII-2022**

The instant application, under Section 151 CPC, is  
for preponement of the main appeal.

For the reasons mentioned in the application, the  
main appeal is preponed and taken up for hearing today itself.

Application stands allowed.

**FAO-M-252-2015 (O&M)**

A joint affidavit dated 27.09.2024 of both the parties  
has been tendered in the due course of hearing today, which is  
taken on record.

2. Learned counsel for the parties have made a prayer to convert the main appeal into a petition under Section 13-B of the Hindu Marriage Act, 1955 (for short 'the Act') for grant of divorce by mutual consent, in view of the compromise/settlement effected between them.

3. Learned counsel for the parties submit that during the pendency of this appeal, parties have amicably settled the matter by way of compromise, as deposed in the joint affidavit dated 27.09.2024, which has been placed on record today. They have decided to part ways on the terms and conditions as contained in the said settlement/affidavit.

4. Since the matter has been amicably resolved between the parties, the main appeal is ordered to be treated as petition under Section 13-B of the Act.

5. Present appeal (**now petition under Section 13-B of the Act**) is directed against the judgment dated 13.03.2015 passed by the Additional District Judge, Panipat, whereby the petition under Sections 13 (1) (i-a) and 13 (1) (i-b) of the Hindu Marriage Act, 1955, filed by the appellant-husband for dissolution of marriage, was dismissed.

6. Learned counsel for the parties submit that marriage between the parties was solemnized on 24.10.2005 according to Hindu rites at Faridabad and out of the said wedlock, two children, namely Aryaman and Ayushman were born, on 13.06.2007 and 12.12.2010. However, due to temperamental differences, the parties could not reside

together. The parties are living separately since 22.01.2012 i.e the date when the respondent had left the company of the petitioner. Thereafter, the petitioner filed the aforesaid petition seeking dissolution of marriage, which was dismissed vide impugned judgment dated 13.03.2015

7. During the pendency of the appeal, parties amicably settled the matter by way of compromise/affidavit dated 27.09.2024. They have decided to part ways on the terms and conditions contained in the said settlement/affidavit.

8. From the bare perusal of the record, it appears that the parties have been living separately for more than 12 years. Keeping in view that the matter has already been settled between the parties as per compromise/affidavit dated 27.09.2024, learned counsel for the parties pray for waiving off the cooling period.

9. Considering the factum of compromise between the parties, the cooling/statutory period of 06 months is hereby waived off.

10. The relevant of terms and conditions as contained in the compromise/joint affidavit dated 27.09.2024, would read as under:-

“2. That be that as it may better sense has prevailed upon both the deponents, who have decided to end the entire litigation and move on with their lives by means of one time settlement towards all past, present and future claims.

3. That as such, the deponents have entered into a compromise to withdraw all litigation against each other and have entered into one time/full and final settlement towards past, present and future maintenance and alimony/future

*alimony, on the payment of Rs.60,00,000/- by the appellant husband to the respondent wife in two equal installments of Rs.30,00,000/- each within a period of one month from today.*

4. *That the said amount of Rs.60,00,000/- shall also include the maintenance and expenses for not only the second deponent wife but also both the minor sons.*
5. *That as a result of the present settlement, the appellant/first deponent shall be entitled to decree of divorce and the respondent/second deponent consents to the same and shall not raise any objection or institute any further litigation.*
6. *That the appellant/first deponent shall withdraw the child custody case filed against the respondent/second deponent and the custody of the children shall remain with the respondent wife, with visitation rights being available to the appellant husband in terms of the earlier orders.*
7. *That in case, the appellant husband fails to pay the sum of Rs.60,00,000/- or resiles from the present settlement, then status quo ante shall come into force and the deponents herein shall be at liberty to institute appropriate legal proceedings and any amount already paid shall stand forfeited.*
8. *That in case, the respondent wife resiles from the present settlement then she shall be liable to return the settlement amount back to the appellant husband.*

11. In view of the aforesaid affidavit/compromise effected between the parties, present petition under Section 13-B of the Act is allowed. Since the divorce is being granted to the parties by way of mutual consent under Section 13-B of the Act, it goes without saying that the judgment and decree dated 13.03.2015, passed by learned Additional District Judge, Panipat, shall have no effect, and the same stand set aside.

12. However, it is clarified that the parties shall remain bound by the terms and conditions of the aforesaid

compromise/affidavit dated 27.09.2024, which shall form part of the decree.

13. Decree sheet be drawn accordingly.

14. Pending application(s), if any, shall stand disposed of.

**(SUDHIR SINGH)  
JUDGE**

**(JASJIT SINGH BEDI)  
JUDGE**

27.09.2024

Ajay Prasher

Whether speaking/reasoned :Yes/No

Whether reportable :Yes/No