SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com

Date of Decision: 5.2.2014 Vs. Mukesh

Date of Decision: 5.2.2014 Vs. Mukesh

SooperKanoon Citation : sooperkanoon.com/1125066

Court : Punjab and Haryana

Decided On : Feb-05-2014

Appellant : Date of Decision: 5.2.2014

Respondent : Mukesh

Judgement :

Civil Revision No.7947 of 2013 1 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH Civil Revision No.7947 of 2013 Date of Decision:

5. 2.2014 Smt.Santro Devi .....Petitioner Versus Mukesh .....Respondent CORAM: HON'BLE MR. JUSTICE MEHINDER SINGH SULLAR. Present: Mr.Rajbir Sehrawat, Advocate for the petitioner. MEHINDER SINGH SULLAR, J.

(Oral) Having heard the learned counsel for the petitioner, having gone through the record with his valuable help and after bestowal of thoughts over the entire matter, to my mind, there is no merit in the instant petition in this context.

2. As is evident from the record that initially, Ranbir son of Ram Chander and his wife Mukesh (respondent) had instituted the divorce petition (Annexure P1) for dissolution of their marriage by a decree of divorce, by way of mutual consent under Section 13-B of the Hindu Marriage Act, 1955. During the pendency of the divorce petition, as luck would have been, Ranbir (husband) had died. Consequently, the District Judge (Family Court) dismissed the divorce petition, as having become infructuous, by virtue of impugned order dated 9.8.2012 (Annexure

P3).

3. Thereafter, petitioner Santro, mother of Ranbir (husband) (since deceased), moved the application (Annexure P4) for restoration of the divorce petition. Taking into consideration the factum of death of Ranbir (husband), the District Judge dismissed the pointed application for Arvind Kumar Sharma 2014.02.10 16:10 I attest to the accuracy and integrity of this document Chandigarh Civil Revision No.7947 of 2013 2 restoration of the divorce petition, by means of impugned order dated 22.8.2013 (Annexure P5).

4. Therefore, once, Ranbir (husband) had already died during the pendency of the main divorce petition, then, his mother (petitioner) has neither any locus standi nor the divorce petition (Annexure P1) can be decided in the absence of husband. The District Judge (Family Court) has correctly negated her plea to restore the divorce petition, by way of impugned order (Annexure P5), which, in substance, is as under (para

4) :- After hearing learned counsel for the applicant Smt. Santro Devi and perusing the case file carefully, I am of the considered opinion that the application in question deserves to be dismissed. Mere filing of a petition for divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955, and making of the statement of first motion, does not, by itself amount to a decree of divorce by mutual consent. In the present case after filing of the petition for divorce by way of mutual consent, husband Ranbir expired and, thus, the court was left with no option but to dismiss the divorce petition as having been rendered as infructuous. There is no ambiguity in the said order. Moreover, the said order has become final. Therefore, the question of inheritance, if any, shall be decided in appropriate proceedings and filing of the present application is no remedy available to Smt. Santro Devi..

5. Meaning thereby, the District Judge (Family Court) has examined the matter in right perspective and has recorded the cogent grounds in this respect. Such orders, containing the valid reasons, cannot legally be set aside, in exercise of superintendence power of this Court, as envisaged under Article 227 of the Constitution of India, unless & until, the same are perverse and without jurisdiction.

Since, no such patent illegality or legal infirmity has been pointed out by the learned counsel for petitioner, so, the impugned orders (Annexures P3 & P5) deserve to be and are hereby maintained in the obtaining circumstances of the case. Arvind Kumar Sharma 2014.02.10 16:10 I attest to the accuracy and integrity of this document Chandigarh Civil Revision No.7947 of 2013 3

6. No other point, worth consideration, has either been urged or pressed by the learned counsel for the petitioner.

7. In the light of aforesaid reasons , as there is no merit, therefore, the instant petition filed by the petitioner is hereby dismissed as such. Sd/- (Mehinder Singh Sullar) Judge 5.2.2014 AS Arvind Kumar Sharma 2014.02.10 16:10 I attest to the accuracy and integrity of this document Chandigarh

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com