

Unknown Vs. Unknown

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Court : Punjab and Haryana

Decided On : Feb-24-2014

Appellant : Unknown

Respondent : Unknown

Judgement :

203 CM No.14996-CII of 2013 in/and -1 - 1- FAO No.M-122 of 2010 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH CM No.14996-CII of 2013 in/and FAO No.M-122 of 2010 Date of Decision: 24.2.2014 Gurjeet KaurFiRs.Party and Sukhjinder Singh ...Second Party CORAM: HON'BLE Mr.JUSTICE S.S.SARON HON'BLE Ms.JUSTICE NAVITA SINGH -.- Present: Mr.Naresh Kaushal, Advocate for fiRs.party Gurjeet Kaur with Gurjeet Kaur.

Mr.H.N.S.Gill, Advocate for second party with Nirmal Singh, Attorney and father of second party.

**** S.S.SARON, J.

Heard learned counsel for the parties.

The marriage between the parties was solemnized at Village Katlaur, Tehsil Chamkaur Sahib, District Ropar by Anand Karaj ceremony on 15.1.2006.

After marriage, the parties cohabited together at Village Barsalpur, Tehsil Chamkaur Sahib, District Ropar.

From the marriage, they had a daughter namely Simarpreet Kaur, who was born on 27.11.2007.

On account of matrimonial disputes between the parties, Gurjeet Kaur-fiRs.party on 26.4.2008 filed a petition seeking dissolution of the marriage between the parties by a decree of divorce on the ground of Gaurav Bhardwaj 2014.03.06 17:34 I attest to the accuracy and integrity of this document High Court, Chandigarh 203 CM No.14996-CII of 2013 in/and -2 - 2- FAO No.M-122 of 2010 cruelty.

Her petition was dismissed by the learned District Judge, Ropar on 11.1.2010.

Aggrieved against the same, she filed the appeal (FAO No.M-122 of 2010) in this Court.

The appeal was admitted on 07.2.2011.

During the pendency of the appeal, Gurjeet Kaur-fiRs.party on 20.5.2013 stated that if the second party accepts her prayer for grant of a decree of divorce, she shall not claim any maintenance or permanent alimony for herself or for the minor child.

Learned counsel for the second party prayed for time to seek instructions.

The case was taken up on 02.7.2013 and Gurjeet Kaur-fiRs.party reiterated her statement.

Learned counsel for the second party submitted that the second party-Sukhjinder Singh was in Bahrain and he had sent his General Power of Attorney dated 05.6.2013 authorizing his father Nirmal Singh son of Gurdev Singh to represent him in the present case and to compromise the matter.

It was submitted that a joint petition in terms of Section 13-B of the Hindu Marriage Act, 1955 shall be filed for the grant of divorce by mutual consent.

To enable the parties to file a joint petition, the case was adjourned to 16.7.2013.

The fiRs.party filed CM No.14995-CII of 2013 for placing on record the joint petition of the parties (CM No.14996-CII of 2013) for seeking divorce by mutual consent.

On 16.7.2013, the CM was taken up and during deliberations, Gurjeet Kaur-fiRs.party prayed for return of her dowry articles.

Learned counsel for the second party submitted that they were in possession of certain articles as have been mentioned in the proceedings recorded on Gaurav Bhardwaj 2014.03.06 17:34 I attest to the accuracy and integrity of this document High Court,Chandigarh 203 CM No.14996-CII of 2013 in/and -3 - 3- FAO No.M-122 of 2010 16.7.2013, which are motor cycle, washing machine, television, 'petti' (box) containing bed sheets, suits, clothes etc., beds, sofa set, Godrej almirah and a dressing table.

According to learned counsel for the fiRs.party, the gold items of the fiRs.party-Gurjeet Kaur were also with her in-laws.

This, however, was denied by the learned counsel for the second party.

The case was adjourned for consideration to 12.8.2013.

On 12.8.2013, counsel for the fiRs.party on instructions from Gurjeet Kaur-fiRs.party stated that though the gold ornaments were with the second party, however, she did not press for the same as she wanted divorce.

Learned counsel for the second party stated that the gold articles were not with second party-Sukhjinder Singh or his family.

The other articles as are mentioned in the order passed on 16.7.2013 were with them and they were willing to return the same and would deliver them to the fiRs.party at her house at Village Katlaur, Tehsil Chamkaur Sahib, District Ropar, for which, the fiRs.party shall give a receipt.

Accordingly, the case was adjourned to 21.8.2013.

On the said date, notice of CM No.14995-CII of 2013 was issued to the second party.

Mr.H.N.S.Gill, Advocate for the second party accepted notice.

He stated that he had no objection if the joint petition for seeking divorce was taken on record.

Accordingly, CM No.14995-CII of 2013 for placing on record the joint petition was allowed and the joint petition (CM No.14996-CII of 2013) was taken on record.

The statements of the fiRs.party, and attorney and father of the second party regarding divorce by mutual consent were recorded.

Both of them stated that the Gaurav Bhardwaj 2014.03.06 17:34 I attest to the accuracy and integrity of this document High Court,Chandigarh 203 CM No.14996-CII of 2013 in/and -4 - 4- FAO No.M-122 of 2010 parties want divorce by mutual consent.

The case was adjourned for second motion for today.

The fiRs.party-Gurjeet Kaur as also Attorney and father of the second party namely Nirmal Singh are present in Court today.

The statements of Gurjeet Kaur (fiRs.party) and father and Attorney of Sukhjinder Singh (second party) have been recorded on oath at the second motion.

Gurjeet Kaur-fiRs.party has stated that she reiterates her statement made on 21.8.2013 that she wants divorce by mutual consent.

She has also stated that the articles which are mentioned in her statement made on 21.8.2013 have been received back by her.

She has also stated that Simarpreet Kaur, daughter of the parties shall remain with her.

Nirmal Singh, father and Attorney of Sukhjinder Singh (second party) has stated on his behalf that the marriage between the parties be dissolved by a decree of

divorce by mutual consent and he was authorized to make such a statement on the basis of Power of Attorney dated 05.6.2013 (Ex.C-1) and Sukhjinder Singh (second party) had informed him that he has no objection if the marriage between the parties is dissolved by a decree of divorce by mutual consent.

In view of the aforesaid facts and circumstances, learned counsel appearing for the respective parties submit that the joint petition for divorce may be accepted.

We have given our thoughtful consideration to the matter.

Both the parties want divorce by mutual consent.

The fiRs.party-Gurjeet Kaur has made her statement in this regard at the time of fiRs.motion.

The second party-Sukhjinder Singh is Gaurav Bhardwaj 2014.03.06 17:34 I attest to the accuracy and integrity of this document High Court,Chandigarh 203 CM No.14996-CII of 2013 in/and -5 - 5- FAO No.M-122 of 2010 abroad at Bahrain.

He has authorized his father and Attorney namely Nirmal Singh to appear on his behalf and compromise the matter.

Nirmal Singh attorney has stated on behalf of the second party that the latter has no objection if the marriage between the parties is dissolved by a decree of divorce by mutual consent and that he has been authorized by his son Sukhjinder Singh (second party) vide his Power of Attorney dated 05.6.2013 (Ex.C-1) to make such a statement.

Therefore, in the facts and circumstances, it would be just and expedient to allow the joint petition and dissolve the marriage between the parties by a decree of divorce by mutual consent.

Accordingly, the joint petition (CM No.14996-CII of 2013) filed by the parties seeking dissolution of their marriage by a decree of divorce by mutual consent is allowed and the marriage between the parties is dissolved by a decree of divorce.

The minor daughter of the parties namely Simarpreet Kaur will remain with her mother Gurjeet Kaur (fiRs.party). Learned counsel for the fiRs.party submits that in view of the joint petition for divorce being allowed, the appeal filed by the fiRs.party against the judgment and decree dated 11.1.2010, whereby, the petition of the fiRs.party for dissolution of the marriage between the parties on the ground of cruelty was dismissed, has been rendered infructuous and may be dismissed as such.

Accordingly, the appeal (FAO No.M-122 of 2010) seeking dissolution of the marriage between the parties by a decree of Gaurav Bhardwaj 2014.03.06 17:34 I attest to the accuracy and integrity of this document High Court, Chandigarh 203 CM No.14996-CII of 2013 in/and -6 - 6- FAO No.M-122 of 2010 divorce on the ground of cruelty is dismissed as having been rendered infructuous.

The parties shall bear their own costs.

(S.S.SARON) JUDGE (NAVITA SINGH) JUDGE 242.2014 G.

Bhardwaj Gaurav Bhardwaj 2014.03.06 17:34 I attest to the accuracy and integrity of this document High Court, Chandigarh

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