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Suresh Kumar Batra Vs. Varsha Batra

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Court : Punjab and Haryana

Decided On : May-30-1994

Reported in : I(1995)DMC495

Judge : G.C. Garg, J.

Acts : Hindu Marriage Act, 1955 - Sections 13B and 13B(2)

Appeal No. : F.A.O. No. 87-M of 1988

Appellant : Suresh Kumar Batra

Respondent : Varsha Batra

Advocate for Def. : M.P. Singh Gill, Adv.

Advocate for Pet/Ap. : Munishwar Puri, Adv.

Disposition : Appeal allowed

Judgement :

G.C. Garg, J.

1. Suresh Kumar Batra, appellant herein, filed a petition under Section 13 of the Hindu Marriage Act against his wife, the respondent for dissolution of marriage by a decree divorce. The petition did not succeed and was dismissed by the learned Additional District Judge, Roper, by judgment and decree dated June 13, 1988.

Aggrieved thereby the appellant husband has filed the present appeal being F.A.O. No. 87-M of 1988.

2. At the hearing, learned Counsel for the parties presented before me a petition under Section 13B of the Act seeking a decree of divorce by mutual consent. Along with the petition, a Civil Misc. Application was also filed paying that condition of keeping the petition, for grant of a decree of divorce by mutual consent pending for a period of six months may be waived as contemplated by Section 13B(2) of the Act having regard to the peculiar acts and circumstances of the present case. Parties were present during the course of hearing and their statements were recorded separately.

3. From the statements of the parties, it is clear that the parties have not been able to live together for the last about nine years and it is now not possible for them to live together as husband and wife. It is further clear from their statements that they have decided to seek a decree of divorce by mutual consent.

4. The appellant has further stated that he has no objection if the custody of the minor daughter Miss Rabia aged about 10 years is allowed to remain with the mother, Varsha, respondent herein. Respondent Varsha has stated that her minor daughter is in her custody and she is getting education.

5. Thus, after going through the record and the statements of the parties, I am satisfied that, it is a marriage which cannot work. The parties are young and each one of them has a chance to re-arrange his or her life, if freed from the shackles of the present matrimonial bond. Their statements made in Court today justify that the period of six months between the application for divorce by mutual consent and the ultimate, grant be waived. In these circumstances, the petition under Section 13B of the Act seeking decree of divorce by mutual consent succeeds and is accepted and marriage between the parties is dissolved by a decree of divorce by mutual consent by waiving the period of six months. Since the marriage between the parties has been dissolved by a decree of divorce by mutual consent, this appeal has been rendered infructuous and is disposed of as such. The Registry is directed to number and register the petition Under Section 13B of the Act as also the Civil Misc. Application Under Section 151 of the Code of Civil

Procedure, which stands allowed. No costs.

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