

Court No. - 38

Case :- MATTERS UNDER ARTICLE 227 No. - 1313 of 2021

Petitioner :- Bhuvneshwar Singh

Respondent :- Pammi Kumari

Counsel for Petitioner :- Amit Singh, Amrendra Nath Rai

Hon'ble Saumitra Dayal Singh, J.

1. Heard Sri Amrendra Nath Rai, learned counsel for the petitioner no.1 and Sri Amit Singh, learned counsel for the petitioner no.2.

2. Present petition is directed against the order dated 01.02.2021 passed by the Principal Judge, Family Court, Allahabad in Matrimonial Case No. 1490 of 2020 (Bhuvneshwar Singh Vs. Pammi Kumari) instituted under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as the 'Act'). The present petition is supported by the joint affidavit of the parties that is husband and the wife.

3. Undisputedly, the parties were married 04.05.2009. They have lived together in matrimony for ten years and are living separately since 05.07.2019. There are no issues born from the marriage. For more than one and half year, the parties have resided separately. It is also stated that efforts were made to reconcile the differences in their marriage, however, the marriage has irreconcilably broken down. In paragraph nos. 10, 11 and 12 of the affidavit filed in support of the petition, it has been clearly specified that the parties have been living separately for the last three years and they have not met each other since 05.07.2019. They have completely denied any chance of settlement as there is no hope of restoration of their matrimonial life. It is in such circumstances that the parties claim to have filed the joint petition to dissolve their marriage.

4. Petitioner no.1 (husband) is about 43 years of age and the petitioner no.2 (wife) is about 42 years of age. As to their

educational qualifications, it is disclosed that petitioner no.1 holds a masters degree in Computer Application and is working as Deputy Vice President in a private corporation. Petitioner no.2 (wife) holds bachelor degree with additional qualification of Nursery Teacher's Training Course from All India Early Childhood Care and Education. Thus, both the petitioners are educated. Their marriage is more than 11 years old and considering their age and their joint affidavit, they appear to well understand the consequence of their actions.

5. Pursuant to the earlier order, both parties are present and have been identified by their respective counsel. The Court first directed the counsel appearing for the parties to consult the petitioners and to advice them and impress on them the possibilities of mediation. While in reply, both petitioners have declined any hope of successful mediation, the Court had also interacted with the petitioners. They have stoutly stated that there is no hope for further mediation as earlier mediation proceedings were held using the good offices of certain friends and relatives. It has resulted in the parties reaching a conclusion that their marriage be dissolved amicably as that end would be in their best interests. It also appears that terms of settlement have been reached between the parties though the same have not been expressed in clear terms at present.

6. In the entirety of facts, it does appear that the parties have put their minds to the matrimonial discord that clearly exists and have reached a conclusion to dissolve the marriage. Both petitioners are of mature age and appear to have taken an informed decision.

7. On the other hand, the learned court below appears to have rejected the application to waive off requirement of six months in light of condition no. (ii) under the decision of the Supreme Court in **Amardeep Singh Vs. Harveen Singh passed in Civil**

Appeal No. 11158 of 2017, decided on 12.09.2017. To reach that conclusion the learned court below has observed that the petitioner no.2 comes from a small place and that there is no evidence of her being educated enough. The observations appear to be incorrect and out of place. Even if the first observation is factually correct, it may not necessarily lead to the conclusion that the petitioner no.2 is unaware of her rights or consequences of her consent. The fact that her family may have come from small place, cannot lead to any inference as has been recorded. If such inferences may be drawn and accepted, they would only give rise to prejudices and biases, which are to be avoided in judicial proceedings. Petitioner no.2 appears to be a mature person who has made her decision.

8. In the facts of the present case, it appears, no useful purpose would be served in keeping the parties at hold for a period of six months. They appear to have given enough thought to their situation and the circumstances as also the solution they seek for a happy life for themselves.

9. Accordingly, the present petition is **allowed**. The order dated 01.02.2021 passed by the Principal Judge, Family Court, Allahabad is set aside.

10. The waiver as sought may now be granted and the matter be proceeded in accordance with law so as to conclude the proceedings within the timelines provided under the Act. No further direction is required to be issued at this stage.

Order Date :- 25.3.2021

Abhilash