

COURT OF ADDITIONAL PRINCIPAL JUDGE FAMILY COURT, JAMMU.

Case No: 680/2023
Date of Institution : 03.08.2023
CNR No. JKJM020056792023
Date of Decision: 12.03.2024

Sonali Gupta, age 37 years D/O Vinod Gupta R/O Q. No.185, Rehari Colony,
Jammu.

...Petitioner No.1

Through : Mr. I. A. Bazmi & Mr. Nadeem Hamdani, Advocates

Vs.

Manu Gupta, age 45 years S/O Lt. Romesh Chander Gupta R/O Q. No.185, Rehari
Colony, Jammu.

... Petitioner No.2

Through Mr. M. S. Qureshi, Advocate

In the matter of :

Petition Under Section 13-B of Hindu Marriage Act,
1955 for grant of divorce by mutual consent.

Coram:

Pardeep K.Sandhu.
UID Code: JK00109

JUDGMENT

1. The instant joint petition in terms of Section 13-B of Hindu Marriage Act, 1955, seeking a decree of divorce by mutual consent has been filed by the petitioners before this Court. It appears from the pleadings on record that the marriage between the petitioners was solemnized on 30.09.2009 at Jammu in accordance with Hindu Rites and ceremonies and out of their wedlock, three children were born.
2. As per petition, the parties after solemnization of the marriage, lived together as husband and wife at Jammu but with the passage of time, due to non-compatibility of thoughts, the relation between the petitioners remained estranged and was not cordial and owing to differences in temperament, habits, tastes, thoughts and increasing incompatibility, the relationship between the petitioners got deteriorated which resulted into separation and

the parties are living separately for the last more than one year and their marriage has broken down irretrievably with no chance of reconciliation.

3. Petitioners have pleaded that efforts have been made by the parties to save the marriage, but all such efforts did not bring forth any fruitful result. Petitioners have also pleaded that there is no scope of any reconciliation between the parties, therefore, the parties have decided to dissolve their marriage by mutual consent u/s 13-B of Hindu Marriage Act, 1955 on the following terms and conditions:

1. That the custody of the minor children shall remain with the petitioner No.2 (father), however the petitioner No.1 (mother) is having visitation right to meet the children and petitioner No.1 will have the right to participate in the wedding ceremonies of all the daughters and in case any of the daughters wants to stay with the petitioner No.1, petitioner No.2 shall have no objection.
2. That Petitioner No.2 shall pay Rs. 16.00 lac as permanent alimony to the petitioner No.1 in two installments. The first installment amounting to Rs.3.00 lac will be paid by the petitioner No.2 on the date of filing of the petition and 2nd installment of Rs.13.00 lac shall be paid on the date of recording of statement of second motion before the grant of decree of divorce. The whole amount shall be deposited before the Court and same shall be released in favour of petitioner No.1 after passing of decree of divorce. Beside, Petitioner No.1 shall not claim any alimony in future.
3. All the gold articles/belongings of the petitioner No.1 lying with the petitioner No.2 shall be returned to the petitioner No.1 alongwith the passport and both the parties shall remain present before the passport authority for the renewal of passport of all the daughters.
4. That petitioner No.1 shall withdraw the petition filed u/s 12 of DV Act in the Court of Ld. Sub-Judge 12 FC, Jammu against the petitioner No.2.
5. That both the petitioners shall not interfere into the life of each other and shall not claim any right over the life and property/estate/assets whether movable or immovable of each other.
6. That both the petitioners shall not file any case in respect of matrimonial dispute after passing of the decree.
7. That after passing of decree both the petitioners shall have no concern, right or any due with each other.
8. That both the petitioners shall be at liberty to live their life as per their choice and shall not interfere in the life of each other.

4. The parties have further pleaded that the marriage between the petitioners has broken down irretrievably and there is no chance of reconciliation nor there is any impediment in filing the present petition. Lastly, petitioners pleaded that the parties have no claim against each other in future, as such,

both the parties have prayed that a decree of divorce by mutual consent be passed in their favour.

5. Simultaneous with the presentation of the instant petition, the first motion statements of the parties were recorded on 12.08.2023. However, in compliance to the provisions of Section 13-B (2) of Hindu Marriage Act, case file was earlier adjourned from time to time so that statutory period of six months would lapse and in the meanwhile, the parties would get sufficient time for reconsideration of their desire to dissolve the marriage by mutual consent. Be it noted that they were again provided sufficient time to rethink about their earlier decision, seeking dissolution of marriage by mutual consent, at the time when the second motion statements were recorded.
6. On perusal and consideration of the 2nd motion statements of the parties finally recorded on 20.02.2024, they remained adamant and did not resile from their earlier stand, rather both of them insisted for dissolution of their marriage by way of mutual divorce. The statements of petitioners have been corroborated by witnesses namely Vinod Kumar (father of petitioner No. 1) and Lakshmi Devi (mother of petitioner No.2) who have deposed on the same counts and have prayed that marriage be dissolved between the petitioners.
7. I am conscious of the fact that every effort has to be made to save a marriage but if there are no chances of re-union and there are chances of fresh rehabilitation, the Court should not be powerless in enabling the parties to have a better option.
8. Thus, taking into consideration, the contents of the divorce petition, statements of the parties and their witnesses made on oath, I am of the considered opinion that the better course available in the matter is to dissolve the marriage of the petitioners by way of a decree of mutual divorce in terms of Section 13-B of the Hindu Marriage Act, 1955.
9. Hence, the prayer as made by the petitioners, is hereby accepted and

accordingly, the marriage solemnized between the petitioners on 30.09.2009 at Jammu in accordance with Hindu Rites and ceremonies is hereby dissolved by mutual consent of the parties in terms of the provisions contained Under Section 13-B of the Hindu Marriage Act, 1955. They are ceased to be husband and wife from the date of decree. All the three daughters shall remain under the custody of petitioner No.2 (father) who will take care of the children in all respects in future as agreed by the parties. Petitioner No.1 (mother) shall have all visitation rights to meet her children and will have right to participate in the wedding ceremonies of all the daughters. In case any of the daughters wants to stay with the petitioner No.1, petitioner No.2 shall have no objection. Accordingly, a decree is passed in their favour. Office to draw a decree sheet in compliance to this judgment. No order is passed as to costs. File shall be consigned to records after its due compilation under rule.

Announced:
12.03.2024

(Pardeep K. Sandhu)
Additional Principal Judge
Family Court, Jammu

COURT OF ADDITIONAL PRINCIPAL JUDGE FAMILY COURT, JAMMU

DECREE SHEET

File No.	Date of Institution	Name of the petitioner No. 1	Name of the petitioner No. 2	In the matter of	Date of Decision
680/2023	03.08.2023	Sonali Gupta, age 37 years D/O Vinod Gupta R/O Q. No.185, Rehari Colony, Jammu	Manu Gupta, age 45 years S/O Lt. Romesh Chander Gupta R/O Q. No.185, Rehari Colony, Jammu	Petition under Section 13-B of Hindu Marriage Act, 1955 for grant of divorce by mutual consent.	12.03.2024

ORDER

The marriage solemnized between the petitioners on 06.11.2002 as per Hindu rites he marriage solemnized between the petitioners on 30.09.2009 at Jammu in accordance with Hindu Rites and ceremonies is hereby dissolved by mutual consent of the parties in terms of the provisions contained Under Section 13-B of the Hindu Marriage Act, 1955. They are ceased to be husband and wife from the date of decree. No order is passed as to costs.

Announced:
12.03.2024

(Pardeep K. Sandhu)
Additional Principal Judge
Family Court, Jammu