

PRINCIPAL JUDGE, FAMILY COURT, JAMMU.

File No.	7347/2023
Case No.	682/2023
CNR No.	JKJM020056982023
Date of Institution:	03.08.2023
Date of Decision:	08.05.2024

Kusum Devi age 30 years W/O Sh. Vishal Dogra
D/O Hem Raj
R/O H.No. 201, Ward No.5 Raipur Satwari Jammu.

... Petitioner no.1

Through : Adv. Atul Raina

Vs.

Vishal Dogra S/O Sh. Ashok Kumar
R/O H.No. 126, Nai Basti,
Near Gem Optician, Alora Jammu.

.... Petitioner no.2

Through : Adv. Qamar Zaman Qureshi

In the matter of :-

Petition for divorce with mutual consent under section 13-B of Hindu Marriage Act.

Coram:

Ajay Kumar Gupta
JO Code: JK00095

JUDGMENT

1. The instant joint petition in terms of Section 13-B of Hindu Marriage Act, seeking a decree of divorce by mutual consent has been filed by the petitioners named above before this Court. It appears from the pleadings on record that the marriage between the parties was solemnized as per Hindu rites and customs on 29.11.2012 at Jammu and one female child namely Surbhi Dogra has born out of their wedlock.

2. As per the petitioners despite all efforts made by the elders of the parties as also the members of the Baradari for their reunion, the parties could not reconcile on the issues which led to their separation and therefore for such reasons now the parties to this petition are living separately for the last about eight years. The marriage between the parties has irretrievably broken down and there is no chance of their living as husband and wife. Both the parties have jointly agreed to seek a decree of divorce by mutual consent through the medium of present petition inter alia on the settlement arrived at between the parties which is reproduced as under:-

- a. *It has been agreed between the parties that they shall return the belongings to each other which were exchanged at the time of their marriage before recording of the statement of second motion.*
- b. *That petitioner No.2 shall pay an amount of Rs. 3.00 lacs to the petitioner No.1 before recording of the 2nd motion statement.*
- c. *That the parties shall not file any pleadings against each other in any court of law at any time in future and they are free to lead their independent life in accordance to their own volition and free will and none of the parties shall interfere in each other's future life and would see that their chapter as husband and wife is closed once for all.*
- d. *That the parties are firm on their decision and there is neither undue influence, pressure or coercion from any quarter and that this step is being taken by them for betterment of their future life.*
- e. *It has been further resolved between the parties that they shall not initiate any action against each other with respect to any matter in future and that none of them will have any concern with each other in future and also with regard to*

their future life for all time to come. This agreement has arrived at between the parties out of their free and proper frame of mind and that none of them shall resile from their commitment as detailed hereinabove.

- f. *That as a measure of agreement it has been mutually resolved that they shall not file any claim against each other with regard to any property whether moveable or immoveable in their future life and the parties are free to lead independent life without any interference from each other.*
- g. *It has been further agreed between the parties that neither of them shall claim anything by way of money, property ,(both moveable as well as immoveable) from each other henceforth and shall have no concern with each other's interests.*
- h. *It has been mutually resolved that the minor child namely Surbhi Dogra shall remain in the custody of the petitioner No.1 and petitioner No.1 shall allow the petitioner No.2 to meet her child as and when requested by the petitioner No.2 and they shall not file any claim with respect to the minor child in future life.*

3. Finally, petitioners have prayed that a decree of divorce with mutual consent in accordance with the terms and conditions referred hereinabove may be passed in their favour and the marriage between them may be declared to have been dissolved.

4. Simultaneous with the presentation of the instant petition before this court on 03.08.2023, statements of the parties on first motion were recorded on oath on the above said date and thereafter after the reconciliation between the parties, the case remained adjourned till 29.04.2024. Since the statutory period of six months in the present case is already complete, as such, the statements of the

parties on second motion were recorded on the above said date i.e. on 29.04.2024. The parties in their statements on second motion have reiterated the same facts, terms and conditions, which have already been mentioned by them in their petition as well as in their statements recorded on first motion and in the affidavits filed in the present petition. It has been stated that the petitioner No.2 has paid an amount of Rs. 3.00 lacs as agreed between the parties to the petitioner No.1 who has acknowledged the receipt of the same.

5. After recording the statements of the parties on second motion the case in hand came up today for judgment.
6. From the perusal of the statements of the parties on second motion, it appears that the petitioners remained firm and did not resile from their earlier stand, rather both of them insisted for dissolution of their marriage by way of mutual divorce.
7. Section 13-B of Hindu Marriage Act provides for dissolution of Marriage by mutual consent between the parties, who have been living separately for a period of one year or more.
8. As in the present case, it has been specifically pleaded by the parties that they are living separately for the last more than eight years. Thus, taking into consideration the contents of the divorce petition, statements of the parties, their witnesses made on oath and the Judgment referred supra, 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.
9. Hence, the prayer as made by the parties, is hereby accepted and accordingly, the marriage solemnized between the parties to this petition as per Hindu rites and customs on 29.11.2012 at Jammu is hereby dissolved with mutual consent of the parties in terms of the provisions contained under Section 13-B of the Hindu Marriage Act on the terms and conditions which have already been mentioned in the instant petition as well as in the statements of the parties and in the affidavits filed before the court in the present petition. 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. As such, the petition in hand stands disposed off and file be consigned to records after its due compilation.

Announced

08.05.2024

(Ajay Kumar Gupta)
Principal Judge
Family Court, Jammu

Sunil Sharma
Exe. Asstt.

PRINCIPAL JUDGE, FAMILY COURT, JAMMU

DECREE SHEET

File No. Case No.	Date of Institution	Name of the petitioner no. 1	Name of the petitioner no. 2	In the matter of :	Date of Decision
Mat.Case(Civil) 7347/2023 682/2023	03.08.2023	Kusum Devi age 30 years W/O Sh. Vishal Dogra D/o Hem Raj R/O H.No. 201, Ward No.5, Raipur Satwari, Jammu.	Vishal Dogra S/o Sh. Ashok Kumar R/O H.No. 126, Nai Basti, Near Gem Optician, Alora Jammu.	Petition under Section 13-B of Hindu Marriage Act seeking divorce by mutual consent.	08.05.2024

ORDER

The marriage solemnized between the petitioners named above as per Hindu rites and customs on 29.11.2012 at Jammu is hereby dissolved with mutual consent of the parties in terms of the provisions contained under Section 13-B of the Hindu Marriage Act on the terms and conditions which have already been mentioned in the instant petition as well as in the statements of the parties and in the affidavits filed before the court in the present petition. No order is passed as to costs.

Announced:
08.05.2024

(Ajay Kumar Gupta)
Principal Judge
Family Court, Jammu