

(2017) 05 RAJ CK 0031
In the Rajasthan High Court
Case No : 1068 of 2017

Deepak Trivedi S/o Shyam Lal Trivedi	APPELLANT
Vs	
Neha W/o Deepak Trivedi D/o Narendra Bohra	RESPONDENT

Date of Decision : 05-05-2017

Acts Referred:

Hindu Marriage Act, 1955, Section 13,
Section 13B - Divorce - Divorce by mutual consent

Citation : (2017) 05 RAJ CK 0031

Hon'ble Judges : Govind Mathur, Vinit Kumar Mathur

Bench : DIVISION BENCH

Advocate : B.S. Deora, Manish Kumar Chitara

Judgement

1. This appeal is before us to challenge the order dated 16.03.2017 passed by learned Family Court No.2, Jodhpur rejecting an application to treat an application preferred under Section 13 of the Hindu Marriage Act, 1955 (for short, "the Act of 1955") as an application under Section 13-B of the Act of 1955 and further to grant a decree of divorce.

2. In brief, factual matrix of the case is that the appellant entered into a wedlock with respondent on 10.12.2013 at Jodhpur. An application as per the provisions of Section 13 of the Act of 1955 was preferred by the appellant before the Family Court, Chittorgarh on 11.12.2014 alleging cruelty and desertion on part (2 of 4) [CMA-1068/2017] of the respondent. The application preferred before the Family

Court, Chittorgarh was transferred to Family Court No.2, Jodhpur at the instance of the respondent.

3. During pendency of the application aforesaid, the appellant and the respondent arrived at a compromise to settle their disputes and also decided to have a decree of divorce by a mutual compromise. An application, thus, was preferred before the Family Court No.2, Jodhpur to treat the application under Section 13 of the Act of 1955 as an application under Section 13-B of the Act of 1955 and further to annul the marriage by granting a decree of divorce.

4. Learned Family Court under the order impugned dated 16.03.2017 dismissed the application on the count that the compromise produced was relating to resolution of certain disputes, but not to have a decree of divorce as a consequence to the compromise. Aggrieved by the same, the instant appeal is preferred.

5. So far as the order passed by the Family Court dated 16.03.2017 is concerned, we are of the view that the Family Court rightly rejected the application as the compromise produced was not having any recital to have a decree of divorce as a consequence to mutual compromise.

6. Be that as it may, before this court, the parties are personally present and stated that they have arrived at a compromise to resolve all disputes and also to have a decree of divorce. They have also placed on record a compromise arrived between them, contents of which read as follows :-

"VERNACULAR MATTER OMITTED"

7. Looking to the fact that the application under Section 13 was filed much back on 11.12.2014 and thereafter parties arrived at a compromise, which was placed before the Family

Court No.2, Jodhpur and further a compromise is placed before this court, we deem it appropriate to accept this appeal in terms of the compromise quoted above. Accordingly, the appeal is allowed. The marriage solemnized between the parties on 10.12.2013 at Jodhpur is hereby annulled. A decree of divorce be prepared and granted in terms of the compromise arrived between the parties.