

(2018) 11 RAJ CK 0088

In the Rajasthan High Court

Case No : Civil Miscellaneousellaneous Appeal No. 4714 Of 2016

Govind Singh S/O Shri Raju Singh

APPELLANT

Vs

Sharda W/O Shri Govind Singh

RESPONDENT

Date of Decision : 28-11-2018

Acts Referred:

Hindu Marriage Act, 1955 — Section 13B

Citation : (2018) 11 RAJ CK 0088

Hon'ble Judges : Pradeep Nandrajog, CJ;G R Moolchandani, J

Bench : Division Bench

Advocate : J.P. Gupta, Govind Singh, Pankaj Sharma, Deepak Asopa, Sharda, Dheer Singh

Final Decision : Disposed Off

Judgement

1. Marriage between the appellant and the respondent was solemnized as per Hindu Custom on 16.06.2002. Alleging cruelty and desertion appellant sought decree of divorce by presenting a petition on 10.04.2013 in Ajmer. As per the petition the respondent had left the matrimonial house without any justified cause for a period of more than two years from the date of filing of the petition. Vide judgment dated 11.07.2016 appellant's petition seeking decree of divorce on ground of cruelty and desertion has been dismissed.

2. In appeal parties were referred to mediation and a settlement has been arrived at in writing before the Mediator on 19.11.2018 as per which on the appellant paying to the respondent 16.15 lacs towards all her claims for dowry and alimony the parties would separate.

3.The settlement between the parties records that no pending litigation between the parties is alive in any Court save and except instant appeal.

4. The appellant is present in person with 36.15 lacs in cash. The settlement agreement records that money would be paid in cash.

5. The respondent appears in person along with her father Mr. Dheer Singh who informs us that he is a retired school teacher. \$6.15 lacs has been received by the respondent in our presence. The money has been counted. In turn she has handed over the money to her father.

6. We have impressed upon Mr. Dheer Singh to ensure that the money is deposited in the account of the respondent and he assures that he would do so in the saving bank account of the respondent opened with the State Bank of India, Branch Beawar. We hope that Mr. Dheer Singh does so.

7. As regards the instant appeal learned counsel for the parties orally move an application under Section 13B of the Hindu Marriage Act, 1955 with another oral application praying to waive six months statutory period between first motion and second motion for the reason the parties have been living separately as of today for more than 15 years.

8. In view of the settlement between the parties we waive the requirement of second motion to be filed after six months of acceptance of the first motion. We record the consent of the parties to annul their marriage by mutual consent.

9. The appeal is disposed of setting aside the impugned judgment dated 11.07.2016. In view of the consent given by the parties a decree of divorce by mutual consent is passed annulling the marriage between the parties solemnized on 16.06.2002. Formal decree be drawn up.