

Court No. - 29

Case :- FIRST APPEAL DEFECTIVE No. - 12 of 2025

Appellant :-

Respondent

Counsel for Appellant :- Praveen Kumar

Counsel for Respondent :- Sunil Kumar Mishra

Hon'ble Ashwani Kumar Mishra,J.

Hon'ble Donadi Ramesh,J.

This appeal is directed against an order passed by Principal Judge, Family Court, Saharanpur dated 9.10.2024, whereby the petition filed by the parties for mutual dissolution of their marriage under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter referred to as the Act), has been rejected on the ground that the minimum period for moving such application, as is provided under Section 14 of the Act, has not yet expired.

The matter was heard on 8.1.2025 and the appeal was adjourned in order to enable learned counsel for the appellant to address the Court on the import of proviso to Section 14 of the Act. The order passed by this Court on 8.1.2025, reads as below:

"Let this matter appear as fresh, once again, on 15.1.2025, in order to enable counsel for the appellant to address the Court on the import of proviso to Section 14 of the Hindu Marriage Act, 1955, in the facts and circumstances of the present case."

Today, when the matter is taken up, learned counsel for the appellant has nothing much to add and ultimately comes up with a prayer to adjourn the matter.

We do not find any substance in the reason for adjournment, inasmuch as the core issue arising in the matter will have to be addressed on merits.

Section 14 of the Act clearly provides that no petition for

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divorce is to be presented within one year of marriage. The proviso, however, empowers the Court to allow a petition even before the expiry of one year, since the date of marriage, on the ground that the case is of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent.

We have perused the application filed by the parties under Section 14 of the Act, which apart from setting up routine grounds such as incompatibility between the parties and their failure to live there together depicts no exceptional hardship or exceptional depravity so as to invoke jurisdiction under the proviso to Section 14 of the Act.

Once, the jurisdiction of the Court under proviso to Section 14 of the Act mandatorily restricts invocation to existence of exceptional hardship or exceptional depravity, the Court concerned would be justified in declining to grant such permission under the proviso, where the parties fail to indicate any exceptional hardship or exceptional depravity on their part. The provision contained under Section 14 of the Act has a laudable object to subserve, inasmuch as the legislature has put an embargo in entertaining an application for dissolution of marriage, within one year for specific performance. Marriage between two Hindus is sacrosanct and its dissolution would be permissible only for the reasons permissible in law. On routine grounds of mutual incompatibility between the parties, it would not be open for the parties to seek exemption from one year limitation in filing such petition. On facts, necessary ingredients for invoking jurisdiction under the proviso to Section 14 is not shown to exist.

In the facts of the present case, we therefore do not find any illegality or perversity in the view taken by the learned Court below in refusing to grant permission to the parties to file a

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petition for divorce even before expiry of one year of marriage.

The appeal consequently lacks merits and is, accordingly, dismissed. It goes without saying that after expiry of period of one year of marriage, it shall be open for the parties to make a fresh application.

Order Date :- 15.1.2025

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