

**HIGH COURT OF MADHYA PRADESH**  
**CR-256-2019**  
*(Mayank Shrivastava Vs. Smt. Ritu Shrivastava)*

**Gwalior, Dated : 09/04/2019**

Shri Awadhesh Pratap Singh Sisodiya, counsel for applicant.

Shri R.P. Singh, counsel for respondent.

This revision under Section 115 of CPC has been filed against the order dated 12.03.2019 passed by Principal Judge, Family Court, Ashoknagar in Case No. 15-A/2019, by which the application filed by the applicant under Section 151 of CPC for waiver of period of 6 months as provided under Section 13-B of Hindu Marriage Act has been rejected.

The necessary facts for the disposal of the present revision in short are that the applicant as well as respondent have filed an application under Section 13-B of Hindu Marriage Act for grant of divorce by mutual consent. It appears that by order dated 12.03.2019 the statements of the parties were recorded and the case was adjourned for a period of 6 months with an advise to the parties to reconsider their decision for obtaining divorce. After the said order was passed, it appears that an application under Section 151 of CPC was filed seeking waiver of mandatory period of 6 months on the ground that since the respondent is a Teacher in a private school at Dabra, whereas the applicant is a doctor and, therefore, the parties cannot attend the Court frequently and thus, the period of 6 months may be waived and decree of divorce may be passed. The said

application has been rejected on the ground that the same is not in accordance with law.

It is submitted by the counsel for the applicant that so far as the provision of 6 months under Section 13-B of Hindu Marriage Act is concerned, it is merely directory in nature and is not mandatory in nature and to substantiate his submission, counsel for the applicant has relied upon the judgment passed by the Supreme Court in the case of **Amardeep Singh Vs. Harveen Kaur** reported in **(2017) 8 SCC 746**.

Heard the learned counsel for the parties.

The Supreme Court in the case of **Amardeep Singh (Supra)** has held as under:-

“20. Since we are of the view that the period mentioned in Section 13-B(2) is not mandatory but directory, it will be open to the court to exercise its discretion in the facts and circumstances of each case where there is no possibility of parties resuming cohabitation and there are chances of alternative rehabilitation.”

Thus, it is clear that the period mentioned in Section 13-B(2) of the Hindu Marriage Act is not mandatory in nature and it is directory in nature and the Trial Court can waive the period of 6 months after exercising its jurisdiction in the facts and circumstances of each case, where there is no possibility of cohabitation and there are chances of alternative rehabilitation.

In the present case, the application under Section 151 of CPC was filed on a singular ground that since the respondent is a Teacher

in a private school and the applicant is a private Doctor, therefore, they cannot come to the Court frequently.

In the considered opinion of this Court, the ground raised in the application under Section 151 of CPC for waiver of the mandatory period of 6 months as provided under Section 13-B(2) of the Hindu Marriage Act is not tenable. Once the parties have approached the Court seeking relief under any particular provision of law, then they have to abide by the procedure provided under the statute and if they want that the Trial Court must exercise its jurisdiction by waiving the period of 6 months as provided under Section 13-B(2) of Hindu Marriage Act, then they should have pointed out that there is no possibility of cohabitation or there is a possibility of alternative rehabilitation, but the personal inconvenience of the parties cannot be a ground for the Trial Court to waive the period of 6 months as provided under Section 13-B(2) of the Hindu Marriage Act.

Accordingly, this Court is of the considered opinion that the Trial Court did not commit any mistake by rejecting the application under Section 151 of CPC. Resultantly, the order dated 12.03.2019 passed by the Principal Judge, Family Court, Ashoknagar in Case No. 15-A/2019 is hereby affirmed.

The revision fails and is hereby dismissed.

**(G.S. Ahluwalia)**  
**Judge**

Abhi