

HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

D.B. Civil Miscellaneous Appeal No. 2089/2018

Shri Mukesh Kumar Chnwala S/o Shri Ramgopal, B/c Khatik, R/o
Khatikan Mohallah, Todaraisingh, Distt. Tonk.

----Appellant

Versus

Kajodi W/o Shri Mukesh Kumar Khatik D/o Shri Ramlal B/c
Khatik, R/o Khatikan Mohallah, Todaraisingh, Distt. Tonk Present
R/o Pasrotiya, Tehsil And Police Station Peeplu, Distt. Tonk.

----Respondent

For Appellant(s)	:	Mr. Sandeep Jain.
For Respondent(s)	:	Mr. Praveen Kumar Jain with Mr. Kamlesh Kaswan.

HON'BLE MR. JUSTICE INDERJEET SINGH
HON'BLE MR. JUSTICE RAVI CHIRANIA

Order

09/12/2025

1. This appeal has been filed by the appellant (hereinafter to be referred as '**husband**') against the order dated 10.02.2017 passed by Additional District Judge, Malpura, Tonk in HMA No.111/2015 whereby the application filed by the husband against the respondent-wife (hereinafter to be referred as '**wife**') under section 13 of the Hindu Marriage Act, 1955 (hereinafter to be referred as the '**Act of 1955**') was dismissed.

2. At the very outset, learned counsel for the husband submitted that during pendency of the application under section 13 of the Act of 1955, an application under Section 24 of the Act of 1955 was filed by the wife and without first deciding the application under Section 24 of the Act of 1955, the main case i.e.

the application under Section 13 of the Act of 1955 as filed on behalf of the husband has been decided. In support of this fact, counsel for the husband has placed certain certified copies of the order-sheets of the court below showing pendency of the application under Section 24 of the Act of 1955.

3. Counsel appearing for the husband does not dispute the above position.

4. We have heard counsel for the parties and perused the material including the certified copies of the order-sheets of the court below placed before us for perusal.

5. On perusal of the certified copies of the order-sheets of the court below dated 19.11.2015, 18.01.2016, 24.02.2016, 05.04.2016, 23.05.2016, 19.07.2016, 24.08.2016, 13.10.2016, 25.11.2016 & 07.01.2017, we find the statement of the counsel for the husband to be correct as there was an application under Section 24 of the Act of 1955 pending and the order impugned herein dated 10.02.2017 itself does not disclose about disposal of the application under section 24 of the Act of 1955, meaning thereby before deciding the application under Section 13 of the Act of 1955, the application under Section 24 of the Act of 1955 was pending.

6. Therefore, considering the facts and circumstances before us, we are of the considered view that the court below, before deciding the main case i.e. the application under Section 13 of the Act of 1955, ought to have first decided the application under Section 24 of the Act of 1955 and thus while setting aside the order dated 10.02.2017 the matter needs to be remanded to the court below.

7. In that view of the matter, the order dated 10.02.2017 passed by the learned court below is set aside and the matter is remitted back to the court below with the direction to first decide the pending application under Section 24 of the Act of 1955 and only thereafter to proceed towards disposal of the application under Section 13 of the Act of 1955.

(RAVI CHIRANIA),J

(INDERJEET SINGH),J

MG/37