

Order dated: 11.08.2025.

Today is fixed for hearing of the petition.

Both sides file hazira.

Heard Ld. Lawyers of the parties.

The trajectory of the case is that the husband has filed a suit for declaration under the Dissolution of Muslim Marriage Act, 1939 read with 151 of C.P.C. Of all the contentions, Para 5 of the petition states, on 22.12.2025 both the petitioner and respondent entered into amicable settlement by signing a Mubaratnama. The Mubaratnama has been signed by both the petitioner and respondent along with the signatures of witnesses.

This Court has encountered a situation where the parties through their Ld. Advocates have verbally submitted and drawn the attention of this Court regarding passing of an order on the basis of Mubaratnama.

Now the record is taken up for passing order.

Upon a careful perusal of Section 2 of the Dissolution of Muslim Marriage Act, 1939, this Court becomes apprised of the fact that by virtue of above mentioned section, a Muslim wife is supposed to file a suit. However, in this case, on the contrary the Muslim husband has instituted the same. So, there arises no cause of action to seek relief from this Court. Further, Section 319(3) of the Mahomedan Law as enunciated in the principles of Mahomedan Law (page – 403; 20th Edition) – when the aversion is on the side of the wife, and she desires a separation, the transaction is called Khula. When the aversion is mutual, and both the sides desire a separation, the transaction is called Mubarat. The offer in a Mubarat Divorce may proceed from the wife, or it may proceed from the husband but once it is accepted, the dissolution is completed and it operates as a Talak-i-bain as in the case of Khula. Plausibly, both the parties have completed their obligations as vividly reflected in the written Mubaratnama. This Court knows that the Mubaratnama itself is a valid form of dissolution of marital bond, therefore, this Court cannot be *in seisin* of passing another decree of divorce.

Hence, it is

ordered

that the instant suit be and the same is hereby dismissed without any costs.

This Court is apprised of the Mubaratnama to be a valid form of divorce between the parties and there arises no scope to pass another decree of divorce as the marriage already stands dissolved by virtue of the Mubaratnama.

All interim order, if any, stands vacated.

Note in TR and CIS.

Dictated & corrected by me

C.J

C.J (J.D)
5th Court, Alipore