

MHTH290021182025



Presented on : 28/10/2025
Registered on : 28/10/2025
Decided on : 03/08/2026
Duration : 00Y 09M 06D

IN THE COURT OF DISTRICT JUDGE-2, BHIWANDI,
DISTRICT THANE
(Presided over by N.K.Karande)

MARRIAGE PETITION NO. 10/2025
EXH. 10

Monikumari Saurabh Gupta

D/o. Rajesh Ramchandra Kesarwani,

Age : 28 years,

Occupation : Household,

R/at :- H. No. 222. Sundarbeni Compound,

Ghunghat Nagar, Kalyan Naka,

Agra Road, Bhiwandi, District Thane.

...PETITIONER NO. 1

AND

Saurabh Krishnakumar Gupta,

Age : 30 years,

Occupation : Service,

R/at :- H. No. 240, Kap Alley,

Opposite BNCCMC Corporation Building,

Bhiwandi, District Thane.

...PETITIONER NO. 2

Shri. Pradeep Thakkar, the learned Advocate for Petitioner No.1

Shri. Yogesh Karle, the learned Advocate for Petitioner No. 2

**PETITION FOR DIVORCE BY MUTUAL CONSENT UNDER
SECTION 28 OF THE SPECIAL MARRIAGE ACT, 1954**

**J U D G M E N T
DELIVERED ON 3rd AUGUST, 2026**

1] This is a petition for decree of divorce by mutual consent filed under Section 28 of the Special Marriage Act.

2] Briefly stated the facts of the petitioners' case are as follows:

Petitioner No.1 married to petitioner No.2 on 30/01/2020 and their marital ties are still in existence. There is no issue out of said wedlock. Due to different thoughts, the quarrel were started between the petitioners. They were unable to reside together. They are unable to sort out their dispute. Both the petitioners live separately from 30/05/2020. Due to differences, the petitioners have decided to dissolve their marriage mutually. Hence, they submitted the present petition for decree of divorce with mutual consent.

3] The following points arise for determination and the findings with the reasoning thereon are as under.

SR.NO.	POINTS	FINDINGS
1]	Whether the petitioners are entitled to decree of divorce by mutual consent?	..In the affirmative.
2]	What order and decree?	As per final order.

// REASONS //**AS TO POINT NO.1:-**

4] Both the petitioners filed their respective affidavits at Exh.05 and 06 respectively in support of the petition.

5] Heard the learned counsel for the petitioners.

6] The present petition is under Section 28 of the Special Marriage Act, 1955, it is necessary to quote the said Section. It reads as under:-

28. Divorce by mutual consent.—

(1) Subject to the provisions of this Act and to the rules made thereunder, a petition for divorce may be presented to the district court by both the parties together on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.

(2) [On the motion of both the parties made not earlier than six months after the date of the presentation of the petition referred to in sub-section (1) and not later than eighteen months] after the said date, if the petition is not withdrawn in the meantime, the district court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized under this Act, and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of the decree.

7] From the above said provision it is certain that a decree for divorce by mutual consent can be granted when and only when the Court is satisfied about:-

- (a) Marriage have been solemnized in between the parties;
- (b) The parties have been living separately for more than year before presenting the petition;
- (c) They were not able to live together at the time of presenting the petition and continue to live apart;
- (d) They had mutually agreed to dissolve the marriage before or at the time the petition was presented; and
- (e) The averments made in the petition are true.

8] From the evidence of the petitioners, it appears that from 30/05/2020, they are residing separately. The petitioners decided to dissolve their marriage by mutual consent. The petitioners have fulfilled the supra conditions.

9] Already the petitioners are residing separately due to differences, they are unable to live together. Thereafter, the settlement efforts are also in vain. Considering the efforts made, it is impossible to reunion by the petitioners.

10] Moreover, the petitioners have also made compliance of the Section 34 of the Special Marriage Act. There is no force or fraud or undue influence on both the petitioners to file the present petition. There is no collusion between the petitioners. So considering evidence of the petitioners and considering settled terms between the petitioners, there is no force and compulsion on both the petitioners. They have freely and voluntarily filed the present petition. During pendency of the

petition the Court also tried to settle the dispute between both the petitioners. However, the petitioners stand their own stand. Hence, the petitioners have proved the conditions of the Section 28 of the Special Marriage Act.

11] The petitioners have filed the present petition with free consent. So considering the material on the record, it is proper to dissolve the marriage of the petitioners. Consequently, the petitioners are entitled for decree of divorce by mutual consent. Point No.1 is therefore answered in the affirmative. In the result, I pass the following order.

ORDER

- 1] The Petition is allowed.
- 2] The marriage in-between Petitioner Nos.1 & 2 solemnized on 30/01/2020 is hereby dissolved from the date of decree.
- 3] Decree be drawn up accordingly.
- 4] No order as to costs.
- 5] Copy of judgment be supplied to both the petitioners free of costs.

Bhiwandi
Dt.03/08/2026

(N.K.Karande)
District Judge-2,
Bhiwandi.