

ORDER BELOW EXH. 07

- 1) The applicants have filed this application to waive the statutory period of six months contemplated under section 13B (2) of Hindu Marriage Act 1955 for passing decree of divorce by mutual consent.
- 2) The applicants have submitted that, their marriage is solemnized in the year of 2021, however because of their matrimonial discard they are residing separately since Dt. 11/08/2021. The applicants as well as their relatives have tried to settle their dispute and to resume their cohabitation, but in vain. It is further submitted that in future also there is no at all possibility that they will resume the cohabitation, therefore they have filed the petition for divorce by mutual consent. Therefore the applicants have prayed to waive the mandatory period of six months provided as per section 13B (2) and to grant the decree of divorce by mutual consent.
- 3) Heard the applicants and their **Ld. Adv. Shri. S.V. Kulkarni.**
- 4) The applicants have filed the petition for divorce by mutual consent stating that they are residing separately since Dt. 11/08/2021 and in future also it is not possible to resume the cohabitation with each other. Therefore by mutual understanding as well as with the consent of the their relatives they have decided to separate from each other and therefore they have filed the petition for divorce by mutual consent. As per section 13B(2) of the Hindu Marriage Act 1955 the court cannot pass a decree of divorce by mutual consent earlier than six months after the date of the presentation of the petition. However, the Hon'ble Supreme Court of India have considered the scope of this mandatory period of six months before passing the decree of divorce by mutual consent in the judgment of **"Amardeep singh Vs Harveen**

Kaur (2017)8 SCC 746” and “Shilpa Sailesh Vs Varun Shreenivasan Transfer Petition (Civil) No. 1118 of 2014 ” wherein it is held that,

“where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13B(2), it can do so after considering i) the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year under Section 13B(1) of separation of parties is already over before the first motion itself; ii)all efforts for mediation/conciliation including efforts in terms of Order 32-A Rule 3 CPC/Section 23(2) of the Act/Section 9 of Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts; iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties; iv) the waiting period will only prolong their agony.”

5) Thus in the present petition also the marriage of the applicants have been solemnized in the year of 2021 and they are residing separately since Dt. 11/08/2021. Further after filing of the present petition this Court had referred the parties for mediation. However, the mediation could not succeed. Even this Court also tried to council the parties with a view to resume their cohabitation with each other. However, they are firm on their stand and willing to separate from each other.

6) Thus from the record it makes clear that the applicants are residing separately from each other and they have not been able to live together as well as there is no at all possibility of reunite of the parties. As per the application the parties have settled their differences including alimony and their future financial assistance. Therefore in such circumstances if the parties are directed to follow the statutory period of six months it would be nothing but prolonging their agony. Therefore considering the facts and guidelines of the Hon'ble Supreme Court of India this is the fit case to waive the cooling off period. Application deserves to be allowed. Hence, I proceed to pass the following order:

ORDER

1)	The application at Exh.07 is hereby allowed.
2)	The statutory period of six months contemplated under section 13B(2) of the Hindu Marriage Act 1955 for passing decree of divorce by mutual consent is hereby waived as prayed.
3)	No order as to costs.

Date: 15/04/2026

(M.B. Sontakke)
2nd Civil Judge Senior Division,
Ambajogai.