

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 3972 of 2025**

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RUSHIN MAHESHBHAI PATEL & ANR.

Versus

NONE

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Appearance:

MR BM MANGUKIYA(437) for the Petitioner(s) No. 1,2

MS BELA A PRAJAPATI(1946) for the Petitioner(s) No. 1,2

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CORAM: **HONOURABLE MS. JUSTICE NISHA M. THAKORE****Date : 01/05/2025****ORAL ORDER**

Heard Mr. BM Mangukiya, learned advocate on record for the petitioners.

Pursuant to the order dated 22.04.2025 passed by this Court, the learned Principal Judge, Family Court, Ahmedabad has submitted report dated 20.04.2025 and has invited attention of this Court to the status of the present family suit being Family Suit No. 3330 of 2024. It is pointed out that the aforesaid suit was filed under Section 13(B) of the Hindu Marriage Act, 1955 on 17.12.2024. From the averments made in the petition, it has transpired that both the petitioners were residing together from 07.07.2022 to 30.10.2024. The petitioners have executed the deed of divorce on 12.12.2024, which is produced on record in the original proceedings. It has further transpired from the averments made in the petition that the petitioners were residing under one roof and therefore, the learned Presiding Officer has reported that the separation of one year between the parties to the petition is not fulfilled.

At this stage Mr. Mangukiya, appearing for the petitioners disputed the aforesaid fact, as according to him the parties are residing separately since 14.08.2023 and the petitioner no.2 had returned to India on 30.10.2024, whereas the petitioner no.1 had returned to India on 15.11.2024. Thereafter, having executed the customary divorce deed on 12.12.2024, immediately the petition under Section 13(B) under Hindu Marriage Act has been preferred before the concerned Court. Responding to the issue of application of waiver of cooling period been filed, learned advocate had submitted that the attempt was made to tender pursis before the learned Judge, seeking waiver of the cooling period, however, learned advocate without joining any further issues, under instructions, has submitted that he would apply afresh and had prayed for appropriate directions to decide such application seeking waiver of cooling period within stipulated period.

Learned advocate Mr. Mangukiya submits that he would appear before the learned Presiding Officer on 05.05.2025, with appropriate application for pre-ponement of the proceedings and has urged to expedite the hearing of the aforesaid application by suitably observing to decide the same preferably within period of two weeks thereafter.

Considering the aforesaid submissions of learned advocate for the petitioners and the facts of the case, the petitioners are permitted to apply seeking waiver of cooling period before the concerned learned Presiding Officer in charge of Family Suit No.3330 of 2024. On filing of such application on 05.05.2025, the learned Presiding Officer is directed to decide such application strictly in accordance with law preferably within a period of two weeks thereafter.

With the aforesaid observations, the present petition stands disposed of. Direct service is permitted **today**.

Radhika

(NISHA M. THAKORE,J)

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: RADHIKA ABHILASH(HCD0042), Steno Gr II, at High Court of Gujarat on 01/05/2025 18:17:23