



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Civil Misc. Appeal No. 1294/2026

Smt. Divya Acharya W/o Shri Pulkit Acharya, Aged About 31 Years, D/o Shri Shaym Sundar Mishra R/o Plot No. 530, Hanuwant A , B.j.s, Paota C Road, Jodhpur City East, Ps- Mahamandir, Jodhpur Rajasthan, Through Power Of Attorney Holder Shri Shaym Sundar Mishra Age About 59 Years R/o Plot No. 530 Hanuwant A Bjs Paota C Road Jodhpur City East Ps Mahamandir Jodhpur Raj.

----Appellant

Versus

Pulkit Acharya S/o Lakshmikant Acharya, Aged About 36 Years, R/o House No. 189, Road No. 15, Opposite Maya Mishthan Bhandar, Udaipur, Rajasthan, Through Power Of Attorney Holder Shri Lakshmikant Acharya Age About 76 Years R/o House No. 189 Road No. 15 Opposite Maya Mishthan Bhandar Udaipur Raj.

----Respondent

For Appellant(s)	:	Mr. Nitin Gokhlani
For Respondent(s)	:	Mr. Nishant Bora

**HON'BLE MR. JUSTICE ARUN MONGA
HON'BLE MR. JUSTICE SUNIL BENIWAL**

Order (Oral)

Reportable

27/03/2026

Per: Arun Monga, J.

1. The appellant has approached this Court aggrieved by the order dated 04.02.2026 passed by the learned Judge of Family Court No. 3, Jodhpur, in Civil Original Case No. 1326/2025 (1315/2026), whereby the learned Family Court rejected the joint application preferred by appellant and respondent seeking permission to tender evidence via video conferencing (hereinafter, 'VC') from their respective place of residence/location, in the

proceedings under Section 13-B of the Hindu Marriage Act, 1955 (hereinafter, 'Act of 1955'), initiated by the parties seeking a decree to dissolve the marriage between the parties by mutual consent. The learned Family Court denied the request on the grounds that as per Rule 5.1 of Rajasthan High Court Rules for Video Conferencing for Courts, 2020 (hereinafter, 'Rules of 2020'), the role of Remote Point Coordinator of Indian Consulate/Embassy is essential in obtaining evidence through VC.

2. Learned counsel for the appellant argues that the appellant and respondent reside in Ireland and the USA, respectively and due to substantial time-zone differences, it is practically impossible for them to appear before the Indian Consulate in alignment with Court timings. The condition imposed by the learned Court is therefore onerous, unreasonable, and incapable of compliance, effectively denying the parties an opportunity to participate in the proceedings.

2.1 Learned counsel for the appellant argues that the learned Family Court failed to recognize that hyper-technical procedural requirements cannot defeat substantive justice. It is submitted that it is a settled proposition that procedure is the handmaiden of justice and cannot be permitted to override substantive rights. The insistence on appearance through the consulate, despite admitted geographical and logistical constraints, amounts to elevating procedural technicalities over the cause of justice and effectively frustrates the remedy available under Section 13 of the Act of 1955.

3. In the aforesaid backdrop, we have heard learned counsels representing parties and perused the file.

4. The learned Family Court vide impugned order, inter alia, observed that since both parties are not residing within the jurisdiction of India and are residing outside the Indian jurisdiction, it is necessary, as per the provisions mentioned in the Video Conferencing Rules, that the parties appear at a Remote Point for recording their statements. Learned Family Court observed that the presence of a Coordinator at the Remote Point is also mandatory as per Rule 5.3.1 of the Video Conferencing Rules framed by the High Court.

5. Before proceeding further, reference may be had to Rajasthan High Court Rules for Video Conferencing for Courts, 2020 which have been framed specifically to cater to such circumstances. Relevant Rules are reproduced herein below:-

“
x-x-x-x-x-x
3. General Principles Governing Video Conferencing:-
(i) Video conferencing facilities may be used at all stages of judicial proceedings and proceedings conducted by the Court.

x-x-x-x-x-x
5. Preparatory Arrangements
5.1 There shall be a Coordinator both at the Court Point and at the Remote Point from which any Required Person is to be examined or heard. However, Coordinator may be required at the Remote Point only when a witness or a person accused of an offence is to be examined.

x-x-x-x-x-x
5.3 The Coordinator at the Remote Point may be any of the following:

Sub Rule	Where the Advocate or Required Person is at the following Remote Point:	The Remote Point Coordinator shall be:
5.3.1	Overseas	An official of an Indian Consulate/ the relevant Indian Embassy / the relevant High Commission of India.

x-x-x-x-x-x

5.4 When a Required Person is at any of the Remote Points mentioned in Sub Rule 5.3 and video conferencing facilities are not available at any of these places the concerned Court will formally request the District Judge, in whose jurisdiction the Remote Point is situated to appoint a Coordinator for and to provide a video conferencing facility from proximate and suitable Court premises.

x-x-x-x-x-x

5.6.4 The person being examined is not prompted, tutored, coaxed, induced or coerced in any manner by any person and that the person being examined does not refer to any document, script or device without the permission of the concerned Court during the course of examination.

x-x-x-x-x-x

8.1 Any person being examined, including a witness shall, before being examined through video conferencing, produce and file proof of identity by submitting an identity document issued or duly recognized by the Government of India, State Government, Union Territory, or in the absence of such a document, an affidavit attested by any of the authorities referred to in Section 139 of the CPC or Section 297 of the CrPC, as the case may be. The affidavit will inter alia state that the person, who is shown to be the party to the proceedings or as a witness, is the same person, who is to depose at the virtual hearing. A copy of the proof of identity or affidavit, as the case may be, will be made available to the opposite party.

x-x-x-x-x-x

8.12 The Court may also impose such other conditions as are necessary for a given set of facts for effective recording of the examination (especially to ensure compliance with Rule 5.6.4).

x-x-x-x-x-x

8.15 Where a Required Person is not capable of reaching the Court Point or the Remote Point due to sickness or physical infirmity, or presence of the required person cannot be secured without undue delay or expense, the Court may authorize the conduct of video conferencing from the place at which such person is located. In such circumstances, the Court may direct the use of portable video conferencing systems. Authority in this behalf may be given to the concerned Coordinator and/or any person deemed fit by the Court.

x-x-x-x-x-x

12.3 The identity of the person to be examined shall be confirmed by the Court with the assistance of the Coordinator at the Remote Point as per Rule 8.1, at the time of recording of the evidence and the same must be reflected in the order sheet of the Court.”

6. A collective reading of the above Rules reveals that there is no bar on a Court exercising its discretion in the absence of a

coordinator to allow the witness / litigant to appear through Video Conferencing from a place other than the designated remote point, provided of course, the circumstances warrant exercising such a discretion. The case in hand pertains to a situation where one party is residing in Ireland and the other in USA, i.e., in different time zones.

7. Accordingly, to expect them to appear at the same time from their respective Embassy / High Commission, given the sheer time difference, is a situation beyond their control as they cannot compel the Government officials to be present at odd hours, just for the convenience of the parties.

8. Moreover, the Rules, *ibid*, also envisage a situation where coordinator is not available as is borne out from Rule 8.15 *ibid*.

9. Accordingly, treating the present situation to be that of unavailability of the coordinator, we direct that learned Family Court shall allow the appellant as well as the respondent herein to cause appearance through Video Conferencing from their respective places of residence, where they are presently stated to be residing, as per the respective addresses mentioned in the cause title. They shall also be allowed to represent and defend themselves through their respective Power of Attorney.

10. The appeal is accordingly allowed. The impugned order dated 04.02.2026 passed by the learned Judge of Family Court No.3, Jodhpur in Civil Original Case No.1326/2025 (1315/2026) is set aside.

11. In the parting, however, we would like to observe that the learned Family Court shall be at liberty to impose any conditions

on the parties qua establishing of their identity, etc. by way of either making them file hard copies of their affidavits in terms of the deposition to be recorded through Video Conferencing by getting the same attested by the Embassy / High Commission of their respective places of residence as the case may be and / or any other condition which the Family Court may deem appropriate.

12. Appeal is allowed, as above and any pending application also stands disposed of.

(SUNIL BENIWAL),J

(ARUN MONGA),J

88-Ashutosh/-