

Sl.35
15.07.2026
Court No.6
BP

C.O. 4279 of 2025

Smt. Puja Nandi (Paul)
-versus-
Sri Tapan Nandi

Mr. Kushal Chatterjee
Mr. Debrup Chowdhury
..for the petitioner

The order dated 24th October, 2025 passed by the learned Additional District Judge, 1st Court at Serampore, Hooghly in Matrimonial Suit No. 103 of 2025 is under challenge at the instance of the wife.

Mr. Chatterjee, learned advocate appearing for the petitioner submits that in a civil revisional application the parties were referred before the mediator and before the learned mediator the parties arrived at a settlement. He further submits that pursuant to the settlement reached between the parties an application under Section 13B of the Hindu Marriage Act was filed before the learned Additional District Judge, 1st Court at Serampore, Hooghly. He submits that in spite of several dates being fixed the husband/opposite party herein is not appearing before the learned Additional District Judge. He submits that the petitioner is aggrieved by the impugned order inasmuch as the matter is being adjourned from time to time and the learned judge is not enforcing the attendance of the opposite party/husband. He submits that 31st July, 2026 has been fixed as the last date in the 13B proceedings.

Sub-section 1 of Section 13B of the Hindu Marriage Act provides that the petition for dissolution of marriage by a decree of divorce may be presented to the district court by both the parties to a marriage together. Sub-section 2 of Section 13B of the Hindu Marriage Act speaks of the motion of both the parties.

Upon a conjoint reading of sub-sections (1) and (2) of Section 13B of the Hindu Marriage Act, 1955 it follows that the petition has to be jointly filed by the respective parties and the court, on the motion of both the parties upon being satisfied after hearing the parties and making such enquiry as he thinks fit pass a decree of divorce declaring the marriage to be dissolved with effect from the date of the decree. Thus it is evident that the parties have to present the application under Section 13B jointly and has to move the same jointly. Section 13B provides for divorce by mutual consent. Upon a conjoint reading of the sub-sections of Section 13B of the Hindu Marriage Act this Court is of the considered view that the consent of the parties for dissolution of marriage by a decree of divorce has to continue till the decree is passed. Non-appearance of a party at the stage contemplated under sub-section 2 of Section 13B may amount to withdrawal of consent by such party to a decree for divorce by mutual consent.

For such reason, this Court is not inclined to interfere with the order passed by the learned Additional District Judge.

C.O. 4279 of 2025 stands disposed of leaving the petitioner free to take appropriate steps in accordance with law.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(Hiranmay Bhattacharyya, J.)