



IN THE HIGH COURT OF DELHI AT NEW DELHI

BEFORE

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

+ W.P.(C) 19685/2025 & CM APPL. 82139/2025

Between:

SH. PRITAM DEY

THROUGH HIS FATHER

PRATIP DEY

R/O 12/804, EAST END APARTMENTS, MAYUR VIHAR PHASE
– I EXTENSION, DELHI – 110096

CURRENTLY RESIDING AT: 409 – 9981, WHALLEY BLV.,
SURREY, PROVINCE OF BRITISH COLUMBIA,
V3T 0G6, CANADA

THROUGH HIS FATHER AND DULY CONSTITUTED
ATTORNEY

PRATIP DEY

S/O. LATE SHRI SAMAR KRISHNA DEY,
R/O. 12/804, EAST END APARTMENTS,
MAYUR VIHAR PHASE – I EXTENSION, DELHI – 110096

.....PETITIONER

*(Through: Mr. Akshay Chandra and Mr. Anand Kumar Rai,
Advocates.)*

Versus

1. UNION OF INDIA

THROUGH ITS SECRETARY

MINISTRY OF EXTERNAL AFFAIRS (MEA),
SOUTH BLOCK, NEW DELHI – 110011

2. OFFICE OF JOINT SECRETARY (PSP) AND CHIEF



PASSPORT OFFICER
MINISTRY OF EXTERNAL AFFAIRS, GOVT. OF INDIA,
PATIALA HOUSE, TILAK MARG,
NEW DELHI – 110001

3. MS. AAYUSHI RATHORE DEY @ AAYUSHI RATHORE
(EX-WIFE OF PETITIONER - PRITAM DEY)
D/O. SHRI AKHILESH KUMAR RATHORE,
R/O. 18 – A, POCKET – B, SFS FLATS,
MAYUR VIHAR PHASE – III, DELHI – 110096

.....RESPONDENTS

(Through: Mr. Ruchir Mishrra, Mr. Sanjiv Kr Saxena, Mr. Mukesh Kr Tiwari, Ms. Reba Jena Mishra, Ms. Poonam Shukla, Advs. for UOI.)

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Reserved on: 20.05.2026
Pronounced on: 29.05.2026

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The short but seminal question that arises for consideration before this Court is whether the decree of divorce by mutual consent passed by the Supreme Court of British Columbia, New Westminster Registry, Canada [“Foreign Court”] can be acted upon by the respondent no. 1 & 2 [“Passport Authorities”] for carrying out consequential alterations in the petitioner’s passport records. This Court answers the aforesaid question in favour of the petitioner for the reasons and detailed analysis recorded in the succeeding paragraphs.

I. FACTUAL MATRIX

2. The petitioner and respondent no.3 got married on 23.11.2017 in Indirapuram, Ghaziabad, Uttar Pradesh, in accordance with Hindu rites and ceremonies and the said marriage was subsequently registered on 23.03.2018 with the Office of the District Magistrate, Mayur Vihar, East Delhi. The parties initially resided together at their matrimonial home in Delhi from November, 2017 till May, 2021, and, thereafter, relocated to Canada, for professional and personal reasons.

3. It is stated that owing to temperamental and irreconcilable differences, the petitioner and respondent no. 3 were separated on 01.09.2022 and had amicably decided to part ways by executing a Separation Agreement dated 13.11.2023 in British Columbia, Canada. Pursuant thereto, both the petitioner and respondent no. 3 jointly sought dissolution of marriage before the Foreign Court.

4. It is averred that the Foreign Court, after due participation of both parties, passed a Final Order dated 04.04.2024 under **Section 12 of the**



Divorce Act, Canada, thereby dissolving the marriage between the petitioner and respondent no. 3. It is further stated that the said decree of divorce was granted mutually and with the consent of both parties and the same became effective upon expiry of 31 days from the date of the order.

5. The petitioner, thereafter, got remarried to one Ms. Arpita Dutta on 02.08.2024 in British Columbia, Canada and a marriage certificate dated 29.08.2024 also came to be issued in that regard. It is the case of the petitioner that since his passport continued to reflect the name of respondent no. 3 as his spouse, he approached the respondent authorities seeking deletion of her name from the passport records and consequential alteration of his marital status.

6. It is further stated that upon the respondent authorities declining to recognise the aforesaid foreign divorce decree and refusing to effect consequential changes in the petitioner's passport records, the petitioner instituted a Civil Suit¹ under Section 7 of the Family Courts Act, 1984 read with Section 34 of the Specific Relief Act, 1963, seeking declaration of the divorce decree passed by the Foreign Court as valid and binding in India.

7. The said suit, however, came to be dismissed by the learned Principal Judge, Family Court, Karkardooma Courts, Delhi *vide* order dated 05.08.2025 on the ground of lack of territorial jurisdiction, inter alia, holding that neither the parties were residing within the territorial jurisdiction of the said Court nor had the marriage been solemnized or the parties last resided

¹ C.S. No. 32 of 2025, *Mr. Pritam Dey v. Mrs. Aayushi Rathore Dey*, before Principal Judge, Family Court, Karkardooma Courts, Delhi



together within its jurisdiction and mere registration of marriage in Delhi would not confer territorial jurisdiction upon the said Court.

8. It is further stated that after dismissal of the aforesaid suit, the petitioner submitted representations dated 05.12.2025 to Passport Authorities as well as the Indian Consulate, Vancouver asserting that the foreign divorce decree, having been passed by consent and duly apostilled by the competent Canadian authority, did not require any separate declaration or validation from an Indian Court. The petitioner also relied upon Office Memo dated 18.11.2020 and Notice dated 05.09.2024 issued by the Indian Consulate, Vancouver concerning non-requirement of attestation of apostilled Canadian documents.

9. It is the grievance of the petitioner that despite the aforesaid representations and supporting documents, the Indian Consulate, Vancouver, *vide* reply dated 06.12.2025, declined the petitioner's request by merely relying upon Para 3 of the Passport Manual relating to "Foreign Divorce Judgment", without assigning any independent reasons or legal justification, thereby constraining the petitioner to approach this Court by way of the present petition.

II. SUBMISSIONS ADVANCED ON BEHALF OF PARTIES

10. Mr. Akshay Chandra, learned counsel for the petitioner submits that the insistence of Passport Authorities, based upon Para 3.4.2 of the Passport Manual, requiring the parties to obtain a declaratory decree from an Indian Court even in cases where the foreign divorce has been granted by mutual consent, is contrary to the law laid down by the Supreme Court in *Y.*



Narasimha Rao v. Y. Venkata Lakshmi,² as well as the judgment of the Kerala High Court in *Arun A v. Marriage Officer (Sub-Registrar)*.³ It is submitted that the said insistence is also contrary to, **the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961** [*“Hague Apostille Convention”*] and the circulars dated 18.11.2020 and 05.09.2024 governing apostilled Canadian documents.

11. Learned counsel for the petitioner further submits that the decree of divorce passed by the Foreign Court is founded upon settlement and mutual consent, which is also a recognised ground under Section 13B of the **Hindu Marriage Act, 1955** [*“HMA”*]. It is submitted that both the petitioner and respondent no. 3 had voluntarily participated in the proceedings before the Foreign Court and the decree was passed upon due observance of principles of natural justice.

12. According to the petitioner, the foreign divorce decree passed by the Foreign Court is conclusive and binding within the meaning of Section 13 of the **Code of Civil Procedure, 1908**, [*“CPC”*] particularly since both parties were residing in Canada at the relevant time and the decree was passed with consent and participation of both sides.

13. *Per contra*, Mr. Ruchir Mishra learned counsel appearing on behalf of Passport Authorities submits that the petitioner is misconstruing the scope of the Hague Apostille Convention. It is submitted that Apostille certification merely authenticates the origin and execution of a public document and does not automatically render a foreign matrimonial decree valid, binding or

² (1991) 3 SCC 451



enforceable in India. According to the respondents, recognition of foreign judgments is governed strictly by Section 13 of the CPC and the foreign decree must independently satisfy the conditions prescribed therein.

14. It is further submitted that since the marriage between the petitioner and respondent no.3 was solemnized and registered in India under HMA, the Passport Authorities are justified in insisting upon an appropriate declaratory decree from a competent Indian Court before carrying out any alteration in the petitioner's marital status in official records. Reliance has also been placed upon Para 3.4.2 of the Passport Manual, 2020 to contend that even in cases of foreign divorce decrees obtained by mutual consent, an appropriate declaration from an Indian Civil Court is necessary before passport-related changes can be brought into effect.

15. Learned counsel for the respondents further submits that the decree passed by the Foreign Court does not become automatically enforceable merely because both parties consented to the divorce proceedings. According to the respondents, the petitioner is also required to seek execution of the said decree in accordance with Section 44-A of the CPC. It is further contended that the circulars dated 18.11.2020 and 05.09.2024 relied upon by the petitioner cannot override the statutory framework governing recognition of foreign matrimonial decrees under Indian law.

III. ANALYSIS

A. SCOPE OF SECTION 13 AND 14 OF CPC

³ 2023 SCC OnLine Ker 5043



16. In order to adjudicate the issue involved, this Court deems it appropriate to first examine the principles governing recognition of foreign matrimonial decrees under Section 13 of the CPC and presumption as to foreign judgments under Section 14 of the CPC.

17. Sections 13 and 14 of the CPC operate in conjunction and embody the statutory framework governing recognition of foreign judgments in India. While Section 13 CPC is couched in a phraseology that enumerates the limited contingencies in which a foreign judgment would cease to be conclusive. Section 14 CPC, in contradistinction, incorporates a rule of positive presumption by providing that the Court shall presume, unless the contrary appears on record, the Foreign Court which passed the judgment was a Court of competent jurisdiction. Though the presumption under Section 14 CPC is rebuttable in nature, the conjoint effect of Sections 13 and 14 CPC is that a foreign judgment ordinarily carries a presumption of conclusiveness and validity unless the party assailing the same is able to establish that the case falls within any of the exceptions contemplated under Section 13 CPC.

18. In the context of foreign matrimonial judgments, Section 13 CPC assumes particular significance as it governs the recognition and conclusiveness of decrees of divorce passed by Foreign Courts and provides that a foreign judgment shall be conclusive and binding between the parties unless it is shown to fall within any of the exceptions enumerated, therein.

19. The Supreme Court in the ***Y. Narasimha Rao (supra)***., while examining the scope and applicability of Section 13 of the CPC in the



context of foreign matrimonial judgments, laid down the principles and conditions governing the same. The relevant extract from the judgment in **Y. Narasimha Rao (supra)** is reproduced as under:-

“20. From the aforesaid discussion the following rule can be deduced for recognising a foreign matrimonial judgment in this country. The jurisdiction assumed by the Foreign Court as well as the grounds on which the relief is granted must be in accordance with the matrimonial law under which the parties are married. The exceptions to this rule may be as follows:

(i) where the matrimonial action is filed in the forum where the respondent is domiciled or habitually and permanently resides and the relief is granted on a ground available in the matrimonial law under which the parties are married

(ii) where the respondent voluntarily and effectively submits to the jurisdiction of the forum as discussed above and contests the claim which is based on a ground available under the matrimonial law under which the parties are married;

(iii) where the respondent consents to the grant of the relief although the jurisdiction of the forum is not in accordance with the provisions of the matrimonial law of the parties.”

20. An even-handed assessment of the facts of the present case in light of the aforesaid principles elucidated by the Supreme Court would show that the foreign divorce decree passed by the Foreign Court satisfies the requirements contemplated under Section 13 of the CPC. The material placed on record demonstrates that both the petitioner and respondent no. 3 were residing in Canada at the relevant time and had consciously submitted to the jurisdiction of the said Foreign Court.

21. It is further evident that the parties had separated on 01.09.2022 and thereafter voluntarily entered into a Separation Agreement dated 13.11.2023, pursuant to which they jointly sought dissolution of marriage by mutual consent before the Foreign Court. The decree was, thus, passed with the participation and consent of both parties and was not an *ex parte*



determination. Furthermore, the ground of divorce by mutual consent is also recognised under Section 13B of the HMA. This Court, therefore, finds that the conditions governing recognition and conclusiveness of foreign matrimonial decrees, as laid down in *Y. Narasimha Rao (supra)*, stand duly satisfied in the present case.

22. It is also pertinent to note that respondent no. 3 has neither disputed the validity and binding nature of the aforesaid foreign divorce decree nor questioned the dissolution of marriage recorded thereunder.

B. APPLICATION OF PASSPORT MANUAL

23. The respondents have drawn the attention of this Court to Clauses 3.4.1 and 3.4.2 of the Passport Manual, 2020 and contended that even in cases involving a decree of divorce by mutual consent passed by a Foreign Court, the parties are required to obtain declaratory adjudication under Section 44-A of the CPC before consequential changes can be executed in the passport records. For the sake of clarity, Para 3 of the Passport Manual on “*Foreign Divorce Judgment*” is extracted as under:-

3.4. Foreign divorce judgements not valid in India

3.4.1. *The Supreme Court in its judgement dated 9/7/1991 in Y. Narasimha Rao and Ors vs. Y. Venkata Lakshmi and Anr. held that the decree dissolving the marriage passed by the Foreign Court is without jurisdiction according to the Hindu Marriage Act as neither the marriage was celebrated nor the parties last resided together nor the respondent resided within the jurisdiction of that Court. Further, irretrievable breakdown of marriage is not one of the grounds recognized by the Act of dissolution of marriage. The Supreme Court's order is broadly based on Section 13 of the Civil Procedure Code of India. Hence, PIAs may refuse to accept any ex-parte foreign divorce judgement even if it's duly apostilled/ authenticated by foreign Government or Indian Mission/ Post abroad for purpose of grant of any passport service.*



3.4.2. In case of mutually agreed or mutually properly contested divorce cases also, an application must be submitted by the parties at the *competent Indian civil court and a declaratory order authenticating and confirming that the foreign divorce decree is in accordance with Indian law must be obtained by the concerned parties*, before the mutual/contested foreign divorce is accepted by PIAs for grant of any passport service.

24. The submission advanced on behalf of the respondents that the petitioner is required to seek execution of the foreign divorce decree under Section 44-A of the CPC is fundamentally misconceived. Section 44-A CPC operates in the realm of execution of foreign decrees passed by superior Courts of reciprocating territories, whereas, the controversy in the present case pertains to recognition and conclusiveness of a foreign matrimonial decree under Section 13 CPC. The issue before this Court is not one concerning executability of a foreign decree, but whether the decree of divorce dated 04.04.2024 passed by the Foreign Court can be recognised as valid and binding in India.

25. It is also pertinent to note that sub-section (3) of Section 44-A CPC itself makes the executability of a foreign decree expressly subject to the exceptions contained in Section 13 CPC. Thus, even within the statutory framework of Section 44-A CPC, the principle of conclusiveness embodied in Section 13 CPC retains primacy. In matters concerning matrimonial disputes governed by personal laws, recognition of a foreign decree necessarily has to be examined on the touchstone of Section 13 CPC and the principles laid down by the Supreme Court in *Y. Narasimha Rao (supra)*. Once the decree satisfies the requirements of Section 13 CPC, insistence upon a separate execution proceeding under Section 44-A CPC would be legally untenable.



26. Clause 3.4.2 of the Passport Manual 2020 is an *ex lege* requirement that doesn't seem to be borne out either from the provisions of the CPC or from the decision of the Supreme Court in ***Y Narasimha Rao (supra)***.

27. Reference may also be made to the decision of the High Court of Rajasthan in ***Naitik Singh through His Natural Mother Smt. Kavita Singh v. Union of India & Anr.***,⁴ wherein, while interpreting provisions analogous to Clauses 3.4.1 and 3.4.2 of the Passport Manual, the Court observed that the said provisions trace their genesis from the judgment in ***Y. Narasimha Rao (supra)*** and cannot be interpreted in a manner contrary to the letter and spirit of the said decision by mechanically insisting upon declaratory proceedings before an Indian Court even where the foreign decree, otherwise, satisfies the requirements of Section 13 CPC.

C. APOSTILLED DOCUMENTS UNDER HAGUE CONVENTION

28. The contention of the petitioner is that both India and Canada are signatories to the Hague Apostille Convention and, in support thereof, reliance has been placed upon the Office Memorandum dated 18.11.2020 issued by the Ministry of External Affairs and the Notice dated 05.09.2024 issued by the Indian Consulate, Vancouver, to submit that apostilled documents are to be treated as legalised documents not requiring further attestation. According to the petitioner, since the foreign divorce decree was duly apostilled, insistence upon further authentication by the respondent authorities is misconceived. *Per contra*, the respondents have contended that

⁴ 2023 SCC OnLine Raj 3649



apostille merely authenticates the document and does not, by itself, render the foreign decree conclusive or enforceable under Indian law.

29. At this stage, it would be apposite to reproduce the relevant extract of the Office Memo No. Q/OI/433/2/2020 dated 18.11.2020 issued by the Ministry of External Affairs:-

“The Hague Apostille Convention, 1961, abolishes the requirement of legalization of foreign documents for use in any member country, once an Apostille certificate (including e-Apostille) has been issued by a competent authority of the country where the document originates.

2. It has been brought to the notice of this Ministry that some institutes/organizations/establishments in India demand an apostilled document of a member country to be further attested by the Indian Mission/Post in that country. It is clarified that no further attestation or legalization of an apostilled document should be required in India as India is a member of the Hague Apostille Convention. An apostilled document should, therefore, be treated as legalized document in India by all concerned, in accordance with the international obligation under the Hague Apostille Convention.....”

30. It would also be relevant to reproduce the Notice dated 05.09.2024 issued by the Indian Consulate, Vancouver concerning apostilled Canadian documents:-

“NON-REQUIREMENT OF ATTESTATION OF APOSTILLED CANADIAN DOCUMENTS

The Government of India and Government of Canada are signatories to the Hague Convention on Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961. As such the Convention applies to public documents executed in the territory of Canada and which have to be produced to authorities in India. The Convention abolished the requirement of legalisation of foreign documents for use in any member country, once an Apostille Certificate (including e-Apostille) has been issued by a competent authority of the member country where the document originates.

2. The following are deemed to be public documents as per the Hague Convention:



- a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server;*
- b) administrative documents;*
- c) notarial acts;*
- d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.*

3. The following authorities are authorized to issue Apostilles for Canadian documents:

- i. Global Affairs Canada (Ministry of Foreign Affairs Canada)*
- ii. Ministry of Justice, Government of Alberta*
- iii. Ministry of Public and Business Service Delivery, Government of Ontario*
- iv. Ministry of Justice and Attorney General, Government of Saskatchewan*
- v. Ministry of Attorney General, British Columbia*
- vi. Ministere de la Justice du Quebec (Ministry of Justice), Quebec.*

4. Any Canadian document(s) apostilled from the aforementioned authorities in Canada is not required to be further attested by the Consulate General of India, Vancouver. Any apostilled document should, therefore, be treated as legalized document in India by all concerned, in accordance with international obligations under the Hague Apostille Convention.”

31. A perusal of the aforesaid Office Memorandum dated 18.11.2020 and the Notice dated 05.09.2024 would show that the same have been issued in furtherance of the Hague Apostille Convention, to which both India and Canada are signatories. The Convention, held at Hague on 05.10.1961, was introduced with the avowed object of abolishing the cumbersome process of legalisation of foreign public documents through successive diplomatic and consular authentications.

32. Prior to the Convention, a public document intended to be produced in a foreign State was required to undergo multiple layers of certification by different authorities, rendering the process expensive, time-consuming and



procedurally cumbersome. The Convention accordingly replaced the traditional chain legalisation process with a singular certification in the form of an “Apostille” issued by the competent authority of the State of origin.

33. The relevant Articles of the Hague Apostille Convention are extracted as under:-

“The States signatory to the present Convention, Desiring to abolish the requirement of diplomatic or consular legalisation for foreign public documents, Have resolved to conclude a Convention to this effect and have agreed upon the following provisions:

Article 1 The present Convention shall apply to public documents which have been executed in the territory of one Contracting State and which have to be produced in the territory of another Contracting State.

For the purposes of the present Convention, the following are deemed to be public documents:

- a) documents emanating from an authority or an official connected with the courts or tribunals of the State, including those emanating from a public prosecutor, a clerk of a court or a process-server (“huissier de justice”);
- b) administrative documents;
- c) notarial acts;
- d) official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date and official and notarial authentications of signatures.

However, the present Convention shall not apply:

- a) to documents executed by diplomatic or consular agents;
- b) to administrative documents dealing directly with commercial or customs operations.

Article 2 Each Contracting State shall exempt from legalisation documents to which the present Convention applies and which have to be produced in its territory. For the purposes of the present Convention, legalisation means only the formality by which the diplomatic or consular agents of the country in which the document has to be produced certify the authenticity of the signature, the capacity in which the person signing the document has acted and, where appropriate, the identity of the seal or stamp which it bears.”

34. A conjoint reading of the aforesaid provisions would show that once a public document is authenticated by the competent authority of the State of



origin through issuance of an Apostille, the requirement of further diplomatic or consular legalisation by the receiving contracting State stands dispensed with. The Apostille, thus, certifies the authenticity and origin of the public document so as to facilitate its acceptance and circulation amongst contracting States through a simplified and internationally recognised mechanism.

35. India being a contracting State to the Hague Apostille Convention is, therefore, obliged to treat apostilled public documents issued by another contracting State as duly legalised documents in accordance with the obligations arising under the Convention. It is in furtherance, thereof, that the Ministry of External Affairs issued the Office Memorandum dated 18.11.2020 clarifying that apostilled documents issued by member countries do not require any further attestation or legalisation in India.

36. This Court in, ***Dr. Sanjay Khanduja v. Punjab National Bank & Anr.***,⁵ and the Allahabad High Court in, ***Naromattie Devi Ganpat v. Union of India & Ors.***,⁶ while examining the scope of the Hague Apostille Convention, 1961 and the Office Memorandum dated 18.11.2020 issued by the Ministry of External Affairs, have also taken a similar view that apostilled documents issued by a contracting State are to be treated as legalised documents in India and do not require any further attestation or legalisation in view of the obligations arising under the Hague Apostille Convention.

37. Though apostille affixed on a foreign public document merely

⁵ W.P.(C) 1402/2021; Dated:16.02.2021



certifies the authenticity and origin of such document and does not, by itself, render the foreign decree conclusive or enforceable under Indian law. However, once the foreign divorce decree is independently found to satisfy the requirements of Section 13 of the CPC and the principles laid down in **Y. Narasimha Rao (supra)**, the respondent authorities could not have insisted, in a pedantic and mechanical manner, upon a separate declaratory decree from an Indian Court without demonstrating any legal infirmity in the said decree or establishing that the same falls within any of the exceptions contemplated under Section 13 CPC.

38. The Kerala High Court in **Nibu Mathew Titus v. Union of India**⁷ and the Telangana High Court in **Smt. Hima Bindu Maguluri v. Union of India**⁸ have also adopted a consistent view that insistence upon a declaratory adjudication by an Indian Court would be unwarranted where the Foreign Court possessed competent jurisdiction and both parties had voluntarily participated in the matrimonial proceedings culminating in dissolution of the marriage.

IV. CONCLUSION

39. In view of the aforesaid discussion, this Court is of the considered opinion that the foreign divorce decree passed by the Foreign Court is liable to be recognised as conclusive within the meaning of Section 13 of the CPC and, consequently, the respondent authorities cannot insist upon a separate declaratory decree from an Indian Court as a pre-condition for carrying out

⁶ Writ-C No.19866 of 2023; Dated: 18.01.2024,

⁷ W.P. (C) 34684/2019 (G); Dated:11.03.2020

⁸ W.P. (C)No.13669/2025; Dated: 29.10.2025



consequential changes in the petitioner's passport records. Significantly, the respondents have also failed to demonstrate as to how the said decree falls within any of the exceptions contemplated under Section 13 CPC.

40. For the foregoing reasons, the present writ petition is allowed. The respondents are directed to consider and process the petitioner's request for effecting consequential changes in the petitioner's passport records, without insisting upon a separate declaratory decree from an Indian Court, within a period of eight weeks from the date of receipt of a copy of this order. Pending application(s), if any, stand disposed of.

(PURUSHAINDRA KUMAR KAURAV)
JUDGE

MAY 29, 2026
aks.