



2026:DHC:2113-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Judgment delivered on: 10.03.2026***+ **MAT.APP.(F.C.) 72/2026 & CM APPL. 14421/2026****PARAS JAIN & ANR.**AppellantsThrough: Ms. Isha Khanna, Adv. with
Appellant in person.

versus

NEMORespondentThrough: Counsel (appearance not given)
with Respondent in person.**CORAM:****HON'BLE MR. JUSTICE VIVEK CHAUDHARY****HON'BLE MS. JUSTICE RENU BHATNAGAR****J U D G M E N T****CM APPL. 14422/2026** (*condonation of delay of 36 days in filing the appeal*)

1. Having heard learned counsel for the parties and in view of the reasons assigned in the application, the present application is allowed and the delay in filing of the appeal is, hereby, condoned.

2. Accordingly, the present application stands disposed of.

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3. The present appeal assails the Order dated 08.12.2025 passed by the learned Family Judge-03, Karkardooma Courts, Shahdara, Delhi ("Family Court") in HMA No. 1772/2025 (hereinafter referred to as the "impugned order"), whereby the application filed by the parties under Section 14 of the Hindu Marriage Act, 1955 ("HMA") seeking waiver of



the statutory period of one year from the date of marriage was declined and, consequently, the petition filed by the parties under Section 13B(1) of the HMA seeking dissolution of marriage by mutual consent was dismissed.

4. The marriage between the parties was solemnized on 07.05.2025. It is the undisputed factual position that the marriage was never consummated and no child has been born from the wedlock. The parties could not adjust with each other and have been living separately since 15.05.2025. A mutual settlement was executed between the parties on 19.09.2025, whereby they mutually agreed to dissolve the marriage by way of divorce by mutual consent upon payment of a consolidated settlement amount.

5. By the impugned order, the learned Family Court declined to grant leave under Section 14 of the HMA on the ground that the statutory period of one year from the date of marriage had not elapsed and that the parties ought to wait for the expiry of the said period before seeking dissolution of marriage by mutual consent. Consequently, the divorce petition by way of mutual consent was also dismissed.

6. Heard learned counsel for the parties.

7. Learned counsel for the parties submits that continuation of the marriage would cause exceptional hardship to the parties. It is submitted that the parties lived together only for about seven days after their marriage and thereafter separated. The marriage was never consummated and the parties could not reside together. It is further submitted that the



parties belong to different backgrounds and have been unable to adjust with each other. It is also submitted that there are no children from the wedlock.

8. The parties have also relied upon ***Amardeep Singh v. Harveen Kaur***, (2017) 8 SCC 746, with regard to waiver of the period under Section 13B(2) of the HMA, wherein the Supreme Court was of the view that the said period is not mandatory but directory.

9. It is pertinent to note the Section 13B(1) of the HMA, which reads as under:

“(1) Subject to the provisions of this Act a 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, whether such marriage was solemnized before or after the commencement of the Marriage Laws (Amendment) Act, 1976 (68 of 1976), on the ground that they have been living separately for a period of one year or more, that they have not been able to live together and that they have mutually agreed that the marriage should be dissolved.”

10. Section 14 of the HMA provides as under:

“(1) Notwithstanding anything contained in this Act, it shall not be competent for any court to entertain any petition for dissolution of a marriage by a decree of divorce, unless at the date of the presentation of the petition one year has elapsed since the date of the marriage:

Provided that the court may, upon application made to it in accordance with such rules as may be made by the High Court in that behalf, allow a petition to be presented before one year has elapsed since the date of the marriage on the ground that the case is one of exceptional hardship to the petitioner or of exceptional depravity on the part of the respondent, but if it appears to the court at the hearing of the petition that the petitioner obtained leave to present the petition by any misrepresentation or concealment of the nature of the case, the court may, if it pronounces a decree, do so subject to the



condition that the decree shall not have effect until after the expiry of one year from the date of the marriage or may dismiss the petition without prejudice to any petition which may be brought after expiration of the said one year upon the same or substantially the same facts as those alleged in support of the petition so dismissed.

(2) In disposing of any application under this section for leave to present a petition for divorce before the expiration of one year from the date of the marriage, the court shall have regard to the interests of any children of the marriage and to the question whether there is a reasonable probability of a reconciliation between the parties before the expiration of the said one year.”

11. The scope and application of the aforesaid provisions has recently been considered by the Full Bench of this Court in MAT.APP. (F.C.) 111/2025, titled ***Shiksha Kumari v. Santosh Kumar***, decided on 17.12.2025, wherein it was held as under:

“57. We may summarise our conclusions in response to the questions posed, as follows:

57.1. The statutory period of 01-year prescribed under section 13B(1) of the HMA as a pre-requisite for presenting the first motion, can be waived, by applying the proviso to section 14(1) of the HMA;

57.2. The waiver of the 01-year separation period under section 13B(1) of the HMA does not preclude waiver of the 06-month cooling-off period for filing the second motion under section 13B(2); and waiver of the 01-year period under section 13B(1), and the 06-month period under section 13B(2), are to be considered independently of each other;

57.3. Where the court is satisfied that the 01-year period under section 13B(1) and the 06-month period under section 13B(2) of the HMA deserve to be waived, the court is not legally mandated to defer the date from which the divorce decree would take effect, and such decree may be made effective forthwith;

57.4. Such waiver is not to be granted merely for the asking but only upon the court being satisfied that circumstances of ‘exceptional hardship to the petitioner’ and/or ‘exceptional



depravity on the part of the respondent' exist, while also testing the case on the anvil of the considerations set-out in Pooja Gupta;

57.5. Waiver, as above, can be granted both by the Family Court as well as the High Court; and

57.6. As contemplated in the proviso to section 14(1) of the HMA, where a court finds that the waiver of the 01-year period under section 13B(1) has been obtained by misrepresentation or concealment, the court may defer the date on which the divorce would take effect, as may be considered appropriate; or may dismiss the divorce petition, at whichever stage it is pending, without prejudice to the right of the parties to present a fresh petition under section 13B(1) of the HMA after expiration of the 01-year period, on the same or substantially the same facts as may have been pleaded in the petition so dismissed."

12. Section 14 of the HMA embodies the legislative intent that parties should ordinarily not seek dissolution of marriage within one year of its solemnization so that they may have sufficient time to reconsider their decision and attempt reconciliation. However, the proviso to Section 14 recognizes that in certain situations insistence on the statutory waiting period may itself result in undue hardship and therefore empowers the Court to grant leave where the circumstances disclose exceptional hardship.

13. We have also interacted with the parties in chambers. During the course of the chamber interaction, the Court is satisfied with the personal reasons raised by the parties and that the reasons stated by them justify the request for waiver. Looking into the issue of privacy of parties, we restrain ourselves from recording the same.

14. Further, the undisputed factual position demonstrates that the parties lived together only for about seven days after the marriage and



thereafter separated. The marriage has remained unconsummated, and the parties have been living separately since 15.05.2025. There are no children from the wedlock.

15. The absence of cohabitation and consummation, coupled with the immediate separation of the parties soon after the marriage, clearly indicates that the matrimonial relationship between the parties never took shape in any meaningful sense.

16. The Court is also required to consider whether there exists any reasonable probability of reconciliation between the parties. In the present case, both parties have entered into a mutual settlement and have unequivocally expressed their intention not to continue the matrimonial relationship. The material on record does not indicate any possibility of resumption of matrimonial life.

17. In such circumstances, insisting that the parties wait for completion of the statutory period would serve no meaningful purpose and would only prolong a marriage that exists merely in law and not in substance.

18. We find it appropriate that the parties should start their life afresh and in view of the above circumstances, this Court is satisfied that the present case falls within the scope of the proviso to Section 14(1) of the HMA.

19. Accordingly, the Order dated 08.12.2025 passed by the Family Court is set aside.



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20. The application filed by the parties under Section 14 of the HMA is allowed and leave is granted to the parties to present their joint petition for divorce by mutual consent under Section 13B(1) of the HMA before the Family Court forthwith, without waiting for the expiry of one year from the date of marriage.

21. The matter is remanded to the Family Court concerned to proceed with the petition under Section 13B(1) of the HMA in accordance with law. Further, as soon as the second motion petition under Section 13B(2) of the HMA will be filed, the Family Court shall consider and decide the said petition as expeditiously as possible, keeping in view the law laid down in case of *Amardeep Singh v. Harveen Kaur* (supra).

22. The appeal stands allowed in the above terms.

23. Pending application(s) also stand(s) disposed of.

(VIVEK CHAUDHARY)
JUDGE

(RENU BHATNAGAR)
JUDGE

MARCH 10, 2026/nc