

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- CM No. 7217/2024 In
CM(M) No. 259/2024

**Jyotsana Thakur, Age 38 Years
D/o Late Shri Dewan Singh,
R/o A/p H. No. 291, Sector 7,
Channi Himmat, Jammu.**

.....Applicant(s)/Petitioner(s)

Through: Mr. Muneesh Rampal, Advocate.

Vs

**Vijay Singh, Age 50 Years,
S/o Shri Ved Parkash,
R/o Near Shiv Temple
Tea garden Katra
Tehsil Katra, District Reasi.**

.....Non-applicant(s)/Respondent(s)

Through: Mr. Arvind Singh Jalmeria, Advocate.

Coram: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE

**ORDER
(30.12.2024)**

CM No. 7217/2024

01. The present application has been filed by the petitioner for seeking preponement of the case. For the reason cited in the application, the same is *allowed*. Case is taken up for *disposal* today.

02. Application is, accordingly, ***disposed of***.

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03. The petitioner – Jyotsana Thakur joined by the respondent – Vijay Singh are finding themselves in a helpless position with respect to their petition filed under section 13-B of the

Hindu Marriage Act, 1955 pending before the court of learned Additional Principal Judge, Family Court, Jammu, wherein the said court has deferred its indulgence on the purported reasons that from the end of petitioner – Jyotsana Thakur, her no parental side family member is coming forward as a witness to lend satisfaction in the matter to the court.

- 04.** This Court, in terms of an order dated 29.11.2024, came to call for a report from the court below which has come to be submitted wherein the learned Presiding Officer of the court below is mentioning that it has insisted for family member to come forward as a witness to sub-serve the mandate of section 13-B of the Hindu Marriage Act, 1955.
- 05.** The intent of the learned Presiding Officer of the court below may be very well placed but cannot have the sanction of the law as that would be subjecting a woman seeking divorce to mercy of her parents or for that matter her parental family when in law she is not obliged to seek their involvement notwithstanding the state of relationship obtaining between the petitioner and her parental family.
- 06.** Therefore, this Court is inclined to grant its indulgence in the matter by directing the court below to entertain the petition and record the statement of the witness/s whomsoever is/are produced by the petitioner from her end

in support of her averments made in the petition. Similarly, there is no compulsion on the part of the co-petitioner, namely, Vijay Singh to bring his family members as a witness in support of the petition for mutual divorce so filed by both husband and wife acting on their own freewill and volition, particularly, keeping in view their age being that of maturity and date of marriage being 25.09.2006, as such, at this age of their life, two petitioners before the court below seeking divorce by mutual consent are presumed to be knowing their welfare and well-being to the best of their understanding and not as per the understanding of their respective family members.

07. This petition is, accordingly, ***disposed of***.



(RAHUL BHARTI)
JUDGE

JAMMU
30.12.2024

Bunty

Whether the order is speaking: Yes/No

Whether the order is reportable: Yes/No