

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

Case:- CR No. 22/2025
CM No. 4094/2025

Mohd. Jalil Khan, Age 33 years,
S/o Mukhtair Ali, R/o Village Chak
Sajjan, Tehsil and District Kathua.

.....Petitioner(s)

Through: Mr. Ajaz Chowdhary, Advocate.

Vs

Sumina Iqbal, Age 34 years, D/o Iqbal
Din, R/o Village Bigwan, Tehsil and
District Kathua.

..... Respondent(s)

Through:

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

ORDER
(15.07.2025)

1. The petitioner claims to have divorced the respondent as his wife whereas the respondent claiming herself to be wife of the petitioner has filed a suit for restitution of conjugal rights before the court of learned Sub Judge, Kathua on 13.07.2024 in which the petitioner upon appearance sought rejection of the plea which plea of the petitioner has been rejected by the court by virtue of an order dated 24.05.2025.

2. Learned trial court after bearing in mind the provision and scope of Order 7 Rule 11 of the Code of Civil Procedure, 1908 came to a conclusion that the plea itself does not disqualify itself to be rejected by reference to the purported plea of the petitioner that he has divorced the respondent and, therefore, there is no marital relationship obtaining between him and the respondent with respect

to which restitution of conjugal rights can be granted by way of a civil court decree as sought for.

3. This Court has gone through the averments made in the plaint in which the petitioner is clearly not acknowledging that she is in any manner divorced status with the petitioner and rather the respondent has set up a plea that though she was served with notices from the petitioner's end in terms of an exercise undertaken by the petitioner for effecting the talak-e-hasan but the respondent responded to the said notices of the petitioner and in fact solicited for settlement and reconciliation for enabling restoration of the marital relationship but the petitioner refused to come forward with the response. The respondent has also stated in her plaint that talak-e-hasan is not a recognized mode of talak under the Muslim law.

4. This Court is of the view that the petitioner cannot be allowed to sail in two boats, the one in which he puts up a version in his application under Order 7 Rule 11 of the Code of Civil Procedure, 1908 and the other one which is pleaded in the plaint by the respondent. He has to accept either of the two and that is where the petitioner is caught on wrong foot.

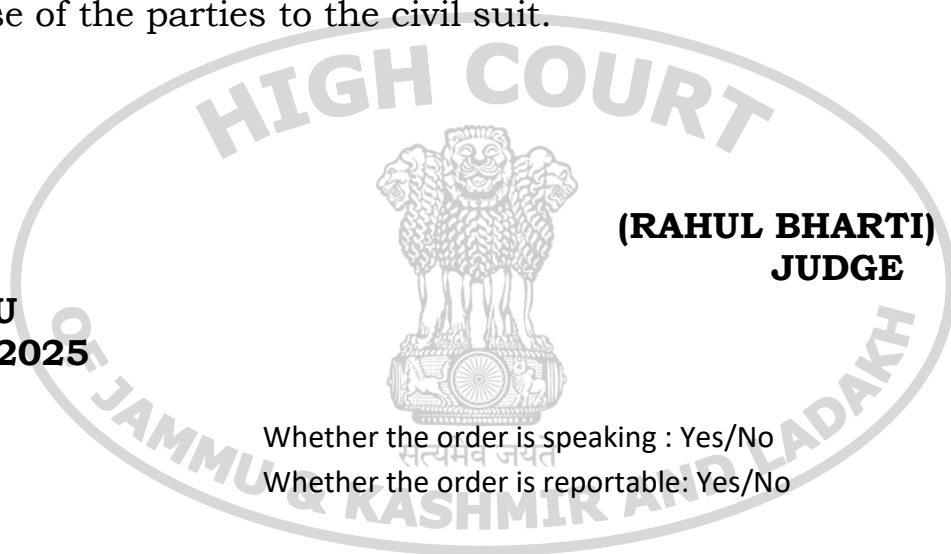
5. If the petitioner accepts that averments made in the plaint are true and correct then the petitioner cannot be heard to say that he has divorced the respondent and if the petitioner says that divorce

is validly effected by him then the said plea is a self-serving plea of the petitioner drawn from his narration of facts and not drawn from the plaint itself.

6. Therefore, this Court does not find any scope for indulgence at this stage of the civil suit and, therefore, the revision petition preferred by the petitioner is not entertained and hereby **dismissed**.

7. Observations of this Court are only meant for the purpose of serving this order having no bearing on the merits and demerits of the case of the parties to the civil suit.

JAMMU
15.07.2025
Shivalee



(RAHUL BHARTI)
JUDGE

Whether the order is speaking : Yes/No
Whether the order is reportable: Yes/No