GAHC010196042026

2026:GAU-AS:13192

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4951/2026

ASIF MALLIK
S/O- LATE RAFIQUL ISLAM MALLIK, R/O-JOSHIHATIPARA, P.O- JOSHIHATIPARA, P.S- HOWLY, DIST- BARPETA, ASSAM, PIN-781316.

VERSUS

THE STATE OF ASSAM AND 4 ORS
REPRESENTED BY THE PRINCIPAL SECRETARY TO THE GOVT. OF ASSAM, DEPARTMENT OF REVENUE REGISTRATION, DISPUR, GUWAHATI-6

2:THE INSPECTOR GENERAL OF REGISTRATION
OFFICE OF THE DIRECTORATE OF LAND RECORDS AND SURVEY ETC. ASSAM
RAJ BHAWAN
RUPNAGAR
GUWAHATI-32.

3:THE REGISTRAR-CUM-DISTRCIT COMMISSIONER
BARPETA
DIST.-BARPETA
ASSAM
PIN-781301.

4:THE SUB REGISTRAR-CUM- MARRIAGE AND DIVORCE REGISTRAR
BARPETA
DIST AND P.S- BARPETA
ASSAM
PIN-781301

5:MAYNA AHMED
D/O- TAFIZ UDDIN
R/O- VILL- KAURPARA

P.O.-HOWLY
P.S.- GOBARDHANA
DIST- BARPETA
PIN-781316
ASSAM

Advocate for the Petitioner : MR. M U MAHMUD, MR SAIFUL ISLAM,MR. R ISLAM,N. UDDIN

Advocate for the Respondent : GA, ASSAM, SC, REVENUE

BEFORE
HONOURABLE MR. JUSTICE RAJESH MAZUMDAR

ORDER

Date : 10.09.2026

Heard Mr. R. Islam, learned counsel for the petitioner. Also heard Ms. N. Bordoloi, learned Standing Counsel, Revenue, appearing for the respondent Nos. 1 and 2.

2. The petitioner, as per his assertion in the writ petition, pronounced Talaq-E-Hassan upon the respondent No. 5 on 28.04.2026, 29.05.2026 and 30.06.2026 in the presence of witnesses and also signed the Talaqnamas on each of the aforesaid dates.

3. It is the case of the petitioner that he approached the Sub-Registrar-cum-Marriage and Divorce Registrar, Barpeta District, Assam, with an application seeking registration of the Talaqnama. However, no action was taken on the said application.

4. The petitioner asserts that the final pronouncement of Talaqnama was made on 30.06.2026. However, the respondent No. 4 refused to receive the same. Thereafter, the petitioner sent his application through Speed Post to the proper address of the respondent No. 4.

5. The petitioner has prayed for a direction to the respondent No. 4 to act upon the application dated 03.07.2026 and dispose of the same in accordance with law, particularly, in terms of Section 12 of the Assam Compulsory Registration of Muslim Marriages and Divorces Act, 2024.

6. Ms. N. Bordoloi, learned Standing Counsel appearing for the Respondent Nos. 1 and 2 submits that in similar circumstances this Court in WP(C) No. 77/2026, disposed of on 09.01.2026, had passed the following directions:

"9. In the present case, it is seen that the petitioner had made the 1st pronouncement of Talaq-E-Hassan on 19.08.2025, followed by the 2nd pronouncement on 20.09.2025 and thereafter, the 3rd pronouncement on 21.10.2025. Normally, with the pronouncement of the 3rd Talaq, as per the requisites of Talaq-E-Hassan, the marriage between the petitioner and the respondent no. 5 stood dissolved. However, in view of the provisions of the said Act of 1935, for such divorce to be enforceable, a registration of the Talaqnama involved was made mandatory. Accordingly, the petitioner contends to have approached the respondent no. 4, who was appointed as the Sub-Registrar cum Marriage and Divorce Registrar, Barpeta. The Talaqnama not being registered, the petitioner had instituted the present proceedings.

10. Under the provisions of the Act of 2024, more particularly, Section 12 thereof, the parties to a divorce are required to make an application to the jurisdictional Marriage & Divorce Registrar for registration of such divorce under the provisions of the Act within one month of such divorce being effected. Provisions of sub-section (2) of Section 12 mandates that on receipt of an application for registration of a divorce, the Marriage & Divorce Registrar is to satisfy himself whether or not such divorce was effected by the person or persons by whom the divorce is claimed to have been effected and also satisfy himself as to the identity of the person appearing before him and claiming that the divorce has been effected. In the event, he is satisfied on the said grounds; an entry of the divorce would be made in the divorce register. The applicants seeking such registration are required to be present and their signatures to be obtained before such entry being made. In the event, the Marriage & Divorce Registrar refuses to register a divorce, Section 17 of the said Act of 2024 provides for appeals being preferred against such decisions.

11. In the case on hand, the Act of 1935 having been repealed and along with such repeal, the post of Sadar Quazi and Registrar of Muslim Marriage and Divorce, Barpeta, created there under, also having been abolished, this Court is not in a position to direct the respondent no. 4 to register the Talaqnama pertaining to the Talaq-E-Hassan, pronounced by the petitioner. However, noticing that the Talaq-E-Hassan as pronounced by the petitioner herein is a valid form of Talaq and not prohibited as on date in the country, this Court hereby requires the petitioner to approach the jurisdictional Marriage & Divorce Registrar, under the provisions of the said Act of 2024, for registration of the divorce.

12. On such approach being made, the jurisdictional Marriage & Divorce Registrar shall consider the application of the petitioner and satisfy himself with regard to the fact as to whether the divorce was effected by the petitioner, who claims to have pronounced the same and also after identifying the petitioner, to be the person pronouncing the divorce, proceed to decide as to whether the divorce would mandate a registration. In the event, it is found that the provisions of Section 12 of the Act of 2024 along with the proviso thereto is satisfied by the petitioner, the jurisdictional Marriage & Divorce Registrar shall make an entry of the divorce pronounced by the petitioner in the divorce register. In the event, the jurisdictional Marriage & Divorce Registrar refuses to register the Talaq-E-Hassan pronounced by the petitioner herein, the petitioner is at liberty to take recourse to the provisions of Section 17 of the said Act of 2024 for redressal of his grievance.

13. The respondent no. 5 not being present before this Court, while passing this order, although notices were duly served upon her, this Court provides that the respondent no. 5 would be at liberty to assail the Talaq-E-Hassan pronounced by the petitioner herein, before an appropriate forum, in accordance with law.

14. In the above observations and directions, the present writ petition stands disposed of"

7. The learned counsel for the petitioner submits that the facts of the present case are covered by the aforesaid decision of this Court and, accordingly, prays that the present writ petition may also be disposed of by passing similar directions.

8. In view of the above, the petitioner shall approach the jurisdictional Marriage and Divorce Registrar under the provisions of the Act of 2024 for registration of the divorce.

9. It has been submitted by the learned counsel for the petitioner that the petitioner is presently posted in Jammu & Kashmir and, due to the exigency of his service, it may not be possible for him to appear before the Marriage and Divorce Registrar within a short period. It is further submitted that, at the time of filing of the writ petition, the petitioner was on sanctioned leave and thereafter he has now been posted in Jammu & Kashmir.

10. In the aforesaid circumstances, it is provided that the petitioner shall

appear before the jurisdictional Marriage and Divorce Registrar for registration of the divorce at his convenience.

11. On such approach being made, the jurisdictional Marriage & Divorce Registrar shall consider the application of the petitioner and satisfy himself with regard to the fact as to whether the divorce was effected by the petitioner, who claims to have pronounced the same and also after identifying the petitioner, to be the person pronouncing the divorce, proceed to decide as to whether the divorce would mandate a registration. In the event, it is found that the provisions of Section 12 of the Act of 2024 along with the proviso thereto is satisfied by the petitioner, the jurisdictional Marriage & Divorce Registrar shall make an entry of the divorce pronounced by the petitioner in the divorce register. In the event, the jurisdictional Marriage & Divorce Registrar refuses to register the Talaq-E-Hassan pronounced by the petitioner herein, the petitioner is at liberty to take recourse to the provisions of Section 17 of the said Act of 2024 for redressal of his grievance.

12. The respondent no. 5 not being present before this Court, while passing this order, although notices were duly served upon her, this Court provides that the respondent no. 5 would be at liberty to assail the Talaq-E-Hassan pronounced by the petitioner herein, before an appropriate forum, in accordance with law.

Writ petition is accordingly disposed of.

JUDGE

Comparing Assistant