

**THE HON'BLE SRI JUSTICE SANJAY KUMAR
AND
THE HON'BLE SRI JUSTICE M. SEETHARAMA MURTI**

-
F.C.A.No.131 of 2016
-

JUDGMENT: (per Hon'ble Sri Justice Sanjay Kumar)

The appellant, who is the husband, is aggrieved by the docket order dated 14.09.2015, whereby the learned Judge, Family Court, Hyderabad, dismissed O.P.No.9 of 2015 which was filed under Section

13-B of the Hindu Marriage Act, 1955, seeking a decree of divorce by mutual consent.

Perusal of the docket order dated 14.09.2015 reflects that the appellant/husband was present before the Court but the respondent/wife was not and there was no representation for her. The learned Family Court Judge took note of the representation that the respondent/wife was not cooperating and accordingly dismissed the O.P.

Notices having been ordered, the respondent/wife is represented before us by Sri Paravastu Krishna, learned counsel. Upon a pointed query from the Court, he stated that his client, the respondent/wife, is no longer desirous of proceeding with the petition filed for a decree of divorce by mutual consent.

In the light of the law laid down by the Supreme Court in **Anil Kumar Jain v. Maya Jain**^[1], if one of the parties to the marriage withdraws his/her consent before a decree of divorce by mutual consent is passed, it would not be open to any Court, except the Supreme Court in exercise of its extraordinary powers under Article 142 of the Constitution, to pass a decree of divorce upon such a petition. We therefore find no error in the order under appeal.

The appeal is accordingly dismissed.

Pending miscellaneous petitions, if any, shall also stand dismissed. No order as to costs.

SANJAY KUMAR, J

M. SEETHARAMA MURTI, J

Date:29.08.2016

GJ

[\[1\]](#) AIR 2010 SC 229