

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 9935 OF 2019

Mr. Mayur Ramesh Shimpi & Ors. ... Petitioners.

V/s.

The State of Maharashtra ... Respondent.

Mr. Ram M. Upadhyay, Advocate for the Petitioners.

Mr. P. V. Nelson Rajan, AGP for the State.

**CORAM : UJJAL BHUYAN, J.
DATE : OCTOBER 11, 2019.**

PC :

1 Heard Mr. Ram Upadhyay, learned counsel appearing for the Petitioners and Mr. Nelson Rajan, Assistant Government Pleader for the State.

2 This Petition challenges the order dated 02.08.2019 passed below Exh.8 by the learned Civil Judge, S.D., Vasai in MP No. 225 of 2019, rejecting the said application filed by the Petitioners for waiving the statutory period of six months under section 13(b)(2) of the Hindu Marriage Act, 1955.

3 Petitioners had entered into wedlock on 24.05.2014 as per Hindu rites and rituals. However, there were irreconcilable differences between the

petitioners, which led to irretrievable break down of their marriage and they started to leave separately since July, 2016. Ultimately, Petitioners decided to go for dissolution of marriage by a decree of divorce on the basis of mutual consent under section 13(B)(2) of the Hindu Marriage Act, 1955. In terms of the agreement entered into between the Petitioners, they filed an application before the learned Civil Judge, S.D., Vasai, for a decree of divorce alongwith an application for waiving the period of six months mentioned in section 13(B)(2) of the aforesaid Act, which application was numbered as Exh. 8 in MP No. 225 of 2019. By the impugned order, learned Civil Judge, S.D. Vasai, rejected the said application by taking the view that no case was made out for waiver of the statutory period.

4 Learned counsel for the Petitioners submits that Petitioners have agreed amongst themselves that their marriage has broken down irretrievably and there is no scope for reconciliation; therefore, the view taken by the learned Civil Judge, insisting on mediation / conciliation, does not stand to reason.

5 Learned Assistant Government Pleader supports the order passed by the learned Civil Judge and submits that from a reading of the said order, it

would be evident that no case for waiver of six months period was made out by the Petitioners.

6 After hearing learned counsel for the parties and on due consideration, court is of the view, having regard to the decision taken by both the petitioners for dissolution of their marriage by mutual consent that there is hardly any scope for mediation / conciliation. Therefore, it would be just and proper for the learned Civil Judge to reconsider the matter afresh and pass appropriate order in accordance with law, in terms of the prayer made by the Petitioners.

7 Accordingly and in the light of the above, impugned order dated 02.08.2019 is hereby set aside and the matter is remanded to the learned Civil Judge, S.D., Vasai for passing fresh order in accordance with law, within a period of 15 days from the date of receipt of an authenticated copy of this order.

8 Writ petition is disposed of in the above terms.

(UJJAL BHUYAN, J.)

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