

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

FRIDAY, THE EIGHTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND TWENTY

PRESENT

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION NO: 968 OF 2020

Petition under Article 227 of the Constitution of India, against the order dated 30/07/2020 in FCOP.No.692 of 2019 on the file of the Court of the Family Court Judge City Civil Courts at Secunderabad

Between:

1. Mrs. Divya Vysapeetam, D/o Sri Raghuram Vyasapeetam W/o. Mr Piyush Kalia Aged 33 years, Occ Service, Pmt R/o. Hyderabad presently residing at No.8, Siri Mallige Flat No.204, 3rd cross Street, R.S Palya, Kammanahalli Main Road, Bengaluru, Karnataka
.....PETITIONER No.1
2. Mr Piyush Kalia, S/o. Mr. Sushil Kalia Aged about 35 years, Occ Service Permanent resident of Flat 402 East-West Society Plot 99 Sector 54 Golf Course Road Gurugram 122011 Haryana Presently residing at No. A-805, Purva West End Apartments Hongasandra, Near Kudlu Gate Bengaluru, Karnataka
.....PETITIONER No.2

AND

The Family Court, City Civil Court Secunderabad Office Of the Zonal Commissioner, Opposite West Marredpally Main Rd. West Marredpally. Secunderabad, Telangana 500026

...RESPONDENT

IA NO: 1 OF 2020

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to dispense with filing of the certified copy of order/direction dated 30/07/2020 of the Family Court, City Civil Court, Secunderabad as the same is issued via email in the interest of justice.

Counsel for the Petitioners: SMT ANITA AHUJA

Counsel for the Respondent:---

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

CRP.No.968 of 2020

ORDER:

This Revision is filed by the petitioner aggrieved by the inaction of the Family Court Judge, City Civil Courts, Secunderabad, in disposing of FCOP.No.692 of 2019 by video conference even though the parties intend to dissolve their marriage through a consent divorce under Section 13B of the Hindu Marriage Act, 1955.

2. Initially when a request appears to have been made by e-mail by the counsel for parties in the OP on 30.07.2020, the Court below stated in a reply e-mail that the online evidence affidavit of the 2nd petitioner is not legible, and that evidence affidavits have to be filed physically when the parties appear before the Court along with the Advocate for giving evidence.

3. According to the counsel for the petitioner, clear and neat evidence affidavits of both the parties were once again uploaded for consideration of the Family Court Judge on 12.09.2020, but the Judge again sent an e-mail on 14.09.2020 stating the following:

- "1. Counselling of parties is mandatory after expiry of six months cooling period. If parties do not appear physically how this Court can do conciliation.

2. Petitioner relied on a decision wherein the party was represented by General Power of Attorney holder. Herein the present case, parties are appearing personally. If evidence is taken through video conference how the signatures of parties shall be obtained on evidence affidavits after marking of exhibits.
3. If evidence is taken through video conference who will sign in the witness register in proof of recording evidence by this Court.
4. If the evidence is taken through video conference how the counsel can identify the parties and endorse on evidence affidavits."

4. In view of the COVID-19 pandemic, this Court had issued Circular ROC.No.394/SO/2020 dt.10.08.2020 limiting the regular judicial work in the Sub-ordinate Courts and Tribunals in the State of Telangana but permitted all the Judicial Officers in the State to take up hearing of cases of certain categories, such as cheque petitions and applications filed under Section 13B of Hindu Marriage Act, 1955 seeking Divorce by mutual consent, through video conferencing.

5. In a judgment rendered by this Court reported in **Seelam Prameela v. Ganta Mani Kumar**¹ it was held that evidence in matrimonial proceedings can be recorded through video conferencing.

¹ CJI 2019 TSHC 317

6. Counsel for the petitioner also placed reliance on a judgment of the Supreme Court in **Amardeep Singh v. Harveen Kaur**² wherein the Supreme Court had taken the view that Section 13B proceedings can be taken up through the medium of video conferencing.

7. Though the Court below has stated that conciliation should once again be done after the expiry of the mandate period of 6 months cooling period, it is not necessary that such efforts of conciliation ought to be made only physically when the parties appear, and it can certainly be done through video conferencing because the parties' photographs are anyway filed along with the 13B petition and their respective counsel will identify them.

8. The Court below also expressed an apprehension that if evidence is taken through video conferencing, how the signatures of the parties can be obtained on evidence affidavit after marking of exhibits and who will sign in the witness register in proof of recording of evidence by the Court. It also stated that counsel cannot identify the parties and endorse on evidence affidavits.

² CJI 2017 SC 1057

9. In my considered opinion, these technical objections cannot come in the way of taking up the proceedings between the parties herein under section 13B of the Hindu Marriage Act, 1955 when the Supreme Court and this Court have held that proceedings under Section 13B can also be done by video conferencing. The Family Court Judge cannot insist that she will not follow the decisions of the High Court and Supreme court and would record the proceedings only physically and not through video conferencing.

10. All procedures are only a handmaid of justice and procedural or technical issues cannot be allowed to defeat substantive justice.

11. The evidence affidavits of the parties can be got notarized and then uploaded for consideration of the Court with the photographs of the parties pasted on them, and these photographs can be compared with the photographs already affixed on the 13B petition filed by the parties, so that the identity of the parties can be ensured. Also the counsel's statements identifying the parties can be recorded in the order, which the Family Court Judge would pass. The requirement of the signing in the witness register in proof of recording evidence by the Court has to be dispensed with, and the statement of the Presiding Officer about such

recording itself would be sufficient in the facts and circumstances.

12. Therefore, the Family Court Judge, City Civil Courts, Secunderabad, is directed to take up FCOP. No.692 of 2019 filed under Section 13B of the Hindu Marriage Act, 1955, and proceed to consider the matter and pass appropriate orders within one week from the date of receipt of copy of this order.

13. The CRP is disposed of accordingly. No order as to costs.

14. Consequently, miscellaneous petitions pending if any, shall stand closed.

SD/- I. NAGA LAKSHMI
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

- 1 The Family Court Judge City Civil Courts at Secunderabad. (By Special Messenger)
- 2 One CC to Smt. Anita Ahuja, Advocate [OPUC]
- 3 Two CD Copies



HIGH COURT

MSR,J

DATED:18/09/2020



ORDER

CRP.No.968 of 2020

DISPOSING OF THE CIVIL REVISION PETITION
WITHOUT COSTS

④ VW
24/9/20