

HIGH COURT OF CHHATTISGARH, BILASPUR**W.P (227) No.682 of 2021**

Shant Kumar Soni S/o Shri Moti Lal Soni, Aged About 42 Years R/o Ward No. 8, Ambikapur Road Katghora, Tahsil / Post / Police Station Katghora, District - Korba Chhattisgarh,
-----**Petitioner**

Versus

Smt. Anjali Soni, W/o Shant Kumar Soni, D/o Dilip Kumar Soni, Aged About 38 Years R/o Singh Wahini Ward, Mandala Post - Mandala, District - Mandala (M.P.)
-----**Respondent**

For Petitioner:

Shri TK Jha, Advocate.

Single Bench:Hon'ble Shri Deepak Kumar Tiwari J
Order On Board

14.12.2021

1. This is a Petition seeking a direction for the Family Court, Katghora, District Korba (CG) to decide the Petition under Section 13B of the Hindu Marriage Act, 1955 for mutual divorce in Civil Case No.104-A/2021.
2. Brief facts of the case are that the marriage of the Petitioner and Respondent was solemnized on 12.06.2015 and after few days of marriage, their relationship got strained and several litigations arose between them. Thereafter, with the advice of the elders of the family, a settlement was made for Rs.12,50,000/- as alimony.
3. A joint Petition to dissolve the marriage with mutual consent was filed before the Family Court, Katghora on 23.08.2021 and in the counseling proceedings, both the parties have stated that there is no possibility of living together. Now, the Respondent is not making any communication with the Petitioner and not responding to the phone calls also. So this Petition has been filed to decide the application filed to dissolve the marriage with mutual consent in accordance with law.
4. Under Section 13B of the Hindu Marriage Act, Divorce by mutual consent, the

Court is to ascertain that the parties have been living separately for a period of one year or more and that they have not been living together and that they have mutually agreed that the marriage should be dissolved. On the motion of both the parties, made not earlier than 6 months after the date of the presentation of the Petition, if the Petition is not withdrawn in the meantime, the Court shall, on being satisfied, after hearing the parties and after making such inquiry as it thinks fit, that a marriage has been solemnized and that the averments in the Petition are true, pass a decree of divorce declaring the marriage to be dissolved with effect from the the date of decree.

5. The period of 6 to 18 months provided in Section 13B is a period of interregnum, which is intended to give time and opportunity to the parties to reflect on their move. In the transitional period, the parties or either of them may have second thoughts. Mutual consent should continue till the divorce decree is passed and the Court should be satisfied about the *bona fides* and consent of the parties.

6. As the learned Counsel for the Petitioner informs that the Respondent is not responding to the phone calls or any communication and even not appearing before the Court, therefore, in such circumstances, as the Petitioner has moved a joint Petition before the Court and also asserted that the Respondent has received permanent alimony, in order to ascertain that consent is continued, the Court may issue necessary process to ensure presence of the Respondent if she voluntarily does not turn up to satisfy about the *bona fides* and consent of the parties and decide the application in accordance with law.

7. With the aforesaid direction, the Writ Petition is disposed of.

Sd/-

(Deepak Kumar Tiwari)
JUDGE