

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

WRIT PETITION NO.2451 OF 2022

1. Smt. Meenal w/o Avadhoot Patil,
Aged 26 Yrs, Occ: Lawyer,
R/o, c/o Hemant Chandwaskar,
Rani Laxmi Ward, Ramayan Nagri,
Bhandara.
2. Shri Avadhoot S/o Dilip Patil,
Aged about 30 yrs, Occ: Service,
R/o 18, Bless Apartment,
Plot No.60, Abdul Kalam Azad Road,
Shivaji Nagar, Nagpur-440010. **PETITIONERS**

...V E R S U S...

Nil

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RESPONDENT

Mr. Nikhil Padhye, Advocate for Petitioners.
Ms. T. H. Khan, Amicus Curiae.

CORAM: **ROHIT B. DEO, J.**
DATE: **6th MAY, 2022.**

ORAL JUDGMENT:

The learned AGP Ms. T. H. Khan is requested to assist
the Court as *amicus*.

2. Rule. Rule made returnable forthwith. Heard finally
with consent of the learned counsel appearing for the parties.

3. The petitioners are legally wedded husband wife and are aggrieved by the rejection by the learned Judge, Family Court of the application jointly preferred for the waiver of the cooling of period prescribed under Section 13-B of the Hindu Marriage Act, 1955 (Act).

4. I have personally interacted with the petitioners, and having done so, I am satisfied that it would be in the mutual interest of the petitioners that the cooling period of six months is waived. Any other view would be prolonging the agony as a matter of ritualistic formality.

5. The learned Judge of the Family Court has rejected the application *inter alia* relying on the decision of the Supreme Court in ***Amardeep Singh Vs. Harveen Kaur (2017 SCC On Line SC 1073)***. The learned Judge of the Family Court has noted the reliance placed by the management on the later decision in ***Civil Appeal No.7650 of 2021 (Amit Kumar Vs. Suman Beniwal)*** dated ***11-12-2021*** and has observed in paragraph 3 that in *Amit Kumar v. Suman Beniwal* the cohabitation was only for three days and that the parties remained firm on the decision to separate despite passage of more than fourteen months.

6. In the present case, according to the petitioners cohabitation was for thirty-five days and they are residing separately since more than fifteen months.

7. I do not consider it appropriate much less necessary to refer to the inputs received while interacting with the learned counsel and the parties in proceedings which are conducted in chamber. Suffice it to note, that I am more than satisfied that the petitioners, who are young and are ready and willing and desirous of making a new beginning in life, satisfy the conditions noted in paragraph 27 of the *Amit Kumar v. Suman Beniwal*.

8. The order impugned is set aside. The period of six months is waived.

9. The petition is allowed in the aforestated terms.

10. The assistance rendered by the learned Amicus, Ms. T. H. Khan is appreciated.

JUDGE