

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR**

WRIT PETITION NO. 7186 OF 2022

Tejesh s/o Vilas Muni
Vs.
Mrs. Priyanka w/o Tejesh Muni

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. S.Y. Deopujari, Advocate for petitioner.
Mrs. Priyanka T. Muni, in person.

CORAM : VINAY JOSHI, J.

DATE : 02.12.2022.

The petitioner-husband has challenged an order of interim maintenance passed by Family Court in Hindu Marriage Petition No.A/1432/2016, in terms of Section 24 of the Hindu Marriage Act, 1955. The said petition was filed by the petitioner-husband seeking a decree of divorce. During pendency of this writ petition, parties have amicably settled a dispute out of Court and filed compromise memo titled as 'compromise petition', which is marked for identification as 'X'.

2. The parties have agreed to dissolve the marriage by seeking conversion of pending Hindu Marriage Petition under Section 13B of the Hindu Marriage Act, 1955. It was agreed that the petitioner – husband would pay a lumpsum amount of Rs.63,54,000/- (Rs.Sixty Three Lakhs Fifty Four Thousand Only) towards full and final settlement including her all monetary claims existing and future.

3. The compromise terms also indicates that the husband has already returned all the articles and belongings to the wife including ornaments. It was decided that the husband would deposit sum of Rs.63,54,000/- (Rs.Sixty Three Lakhs Fifty Four Thousand Only) in the Family Court and then they would file an application seeking conversion of the Hindu Marriage Petition under Section 13B of the Hindu Marriage Act, 1955. It has been agreed that after passing of divorce petition, the wife is entitled to withdraw the entire sum from the Family Court. It is one of the term that both would request Family Court for waiver of the statutory period of six months, in view of their long standing separate residence.

4. Shri S.Y. Deopujari, learned counsel appearing for petitioner requested to dispose of the petition in terms of compromise **Article 'X'**.

5. Both the parties are present before the Court. The respondent lady has been identified by Advocate Deopujari in Court. The respondent has brought her Aadhar Card for identification of which a photocopy has been tendered, which is kept in record.

6. The contents of 'compromise petition' have been particularly read over and explained to the respondent – lady, who has studied M.Tech. She understands the English language. She understood all the terms and agreed in toto. Moreover, the petition bears signatures of both the parties, as well as signature of Advocate Mangesh Bute, who appears for respondent – lady, but at present he is absent.

7. The learned counsel appearing for petitioner would submit that since the parties have been virtually separated since last seven years therefore, the statutory period of six months required to be waived. In this regard, by placing reliance on the decision of the Hon'ble Supreme Court in the case of ***Amardeep Singh Vs. Harveen***

Kaur (2017) 8 SCC 746, he would submit that the Family Court be directed to consider the said position of law.

8. The Family Court shall consider the above referred decision of the Hon'ble Supreme Court and shall independently decide the issue of waiver in accordance with law. Both parties undertakes to appear before the Family Court on **05.12.2022**, which is a scheduled date in the divorce petition.

9. Since the parties have amicably settled the matter by compromise petition Article 'X' and as the compromise is voluntarily arrived by the parties, this petition stands disposed of in terms of compromise petition Article 'X'.

JUDGE