

December 4, 2023  
Sl. No.20  
Court No.19  
s.biswas

CO 3564 of 2023

*Sanchit Sachdev*

*vs.*

*Vishakha Agarwal*

Mr. Varun Kothari

Mr. B. N. Joshi

... for the petitioner

Ms. P. Garain

... for the opposite party

The petitioner is aggrieved by the order dated September 14, 2023, by which the learned District Judge, South 24 Parganas at Alipore refused to entertain the application for waiver of the cooling off period of six months. The parties to the matrimonial suit, who sought divorce on mutual consent, filed such application. The learned court rejected the application on the ground that only the Hon'ble Apex Court could dissolve the marriage by exercising powers under Article 142 of the Constitution of India, upon waiving the cooling off period, but the other courts did not enjoy such power or discretion. According to the learned court, the possibility of reconciliation could not be ruled out, considering the duration of the matrimony and the duration of the separation.

The petitioner/husband urges this court to interfere with the order impugned and waive the cooling off period on the ground that even the trial court could exercise the discretion under the facts

and circumstances of each case and prepone the disposal of an application for divorce on mutual consent by making an exception to the legislative mandate. The opposite party wife also adopts the same submissions.

This court finds that the learned trial judge applied his mind, but did not find it prudent to waive off the cooling period.

Upon perusal of the application for waiver of the cooling off period, this court is of the view that no special circumstances have been made out by the parties which would pursue this court to pass any such order as prayed for, even if all courts are permitted to waive the said period on proper grounds.

Moreover, the issue is now academic, as it appears to the court that the cooling off period of six months will expire sometime in January, 2024 and the next date has been fixed on March 13, 2024. The learned trial court shall dispose of the application for divorce on mutual consents on the next date, in accordance with law.

The revisional application is accordingly disposed of.

There shall be no orders as to costs.

Urgent Photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

**(Shampa Sarkar, J.)**

