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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.1008 OF 2023

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Kunal Namdeo Gaikwad

... Petitioner

V/s.

Snehal Kunal Gaikwad

... Respondent

Mr. Amol B. Jagtap with Mr. Ganesh Kawade for the
petitioner.

Mr. Saiprasad Hole for the respondent.

CORAM : AMIT BORKAR, J.

DATED : JANUARY 24, 2023

P.C.:

1. The petitioner is challenging order dated 2nd January 2023 passed by the learned Judge, Family Court No.3, Pune rejecting joint application of the petitioner and respondent to waive statutory period of six (6) months as contemplated under section 13-B(1) of the Hindu Marriage Act.

2. Perusal of the impugned order shows that the application has been rejected broadly on the ground that the parties have failed to show sufficient ground or urgency for waiver of statutory period. It is also stated that the parties have failed to show any prejudice caused to them by waiting for few more months.

3. Learned advocate for the parties invited my attention to the application. In paragraph 2 of the application, the parties have

stated as under:

“2. That it is not possible that the petitioners will reconcile in near future as they have grave differences against each other moreover the petitioners are living separately for than a period of more than 4 years. The parties have already settled their differences, alimony hence they do not have any other issues to be dealt with and the families of both the parties have mediated the issue but all the efforts have went into vain to settle the issues amongst the parties. If the application is not granted it will only prolong the matter at hands.”

4. Reliance was placed on the judgment of the Apex Court in **Amardeep Singh v. Harveen Kaur** reported in (2017) 8 SCC 746 to urge that the Apex Court in paragraph 19 has laid down parameters to be considered by the Court. While waiving statutory period under section 13-B(1), the Apex Court has held in paragraph 19 as under:

“19. Applying the above to the present situation, we are of the view that where the court dealing with a matter is satisfied that a case is made out to waive the statutory period under Section 13-B(2), it can do so after considering the following:

(i) the statutory period of six months specified in Section 13-B(2), in addition to the statutory period of one year under Section 13-B(1) of separation of parties is already over before the first motion itself;

(ii) all efforts for mediation/conciliation including efforts in terms of Order 32-A Rule 3 CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;

(iii) the parties have genuinely settled their differences including alimony, custody of child or any

other pending issues between the parties;

(iv) the waiting period will only prolong their agony.”

5. On perusal of the affidavits filed by the parties and the application filed before the Family Court, in my opinion, the parties have complied with period of one year as required under section 13-B(1). In paragraph 2 of the application, parties have stated that efforts of settlement have failed. It is submitted across the bar that the mediation/conciliation proceedings before the Family Court have ended in no result.

6. Perusal of the affidavits filed by both the parties, it appears that the petitioner and the respondent have settled their disputes and further waiting would prolong their agony.

7. In that view of the matter, the petitioner has made out a case for waiver of statutory period of six (6) months. The application for waiver of mandatory period of six (6) months is, therefore, allowed.

8. Parties are at liberty to file appropriate consent terms before the Family Court, and if such an application is filed, the Family Court shall pass appropriate order on the said consent terms.

9. The writ petition is disposed of in above terms. No costs.

(AMIT BORKAR, J.)