



C.R.P.(MD) No.1665 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD) No.1665 of 2023

1.Vaduganathan

2.N.Anitha

... Petitioners

Vs.

Nil

... Respondent

Prayer :- Petition filed under Article 227 of the Constitution of India, to call for the records and set aside the order dated 22.06.2023 made in I.A.No.18 of 2023 in HMOP No.93 of 2023, passed by the Sub Court, Thirumayam, Pudukkottai District and allow the above civil revision petition for waiving the statutory waiting period of six months for moving the motion for divorce under Section 13-B(2) of Hindu Marriage Act.

For Petitioners : Mr.B.Jameel Arasu

ORDER

This civil revision petition is preferred by the petitioners in HMOP No.93 of 2023 for a direction, directing the learned Subordinate Judge,



C.R.P.(MD) No.1665 of 2023

Thirumayam, Pudukkottai District, for waiving the statutory waiting period of six months for moving the motion for divorce, under Section 13 B(2) of Hindu Marriage Act, in I.A.No.18 of 2023.

2. In the supporting affidavit, it is mentioned that the said HMOP No.93 of 2023 was filed by the petitioners, wherein it is specifically admitted that they have been separated on account of matrimonial discord and the parties themselves, were not willing to live the matrimonial life and they have been separated for more than four years and the parties inclined to go ahead with the divorce and there is no purpose of waiting for the statutory period of six months, since it would not serve any purpose. Hence, prays to set aside the order passed in I.A.No.18 of 2023 by the learned Subordinate Judge, Thirumayam, by allowing this civil revision petition and thereby waiving of the statutory waiting period of six months for moving the motion for divorce under section 13(B)(2) of Hindu Marriage Act in I.A.No.18 of 2023.

3. To support his contention, the learned counsel for the revision petitioners has relied upon the decision in *Amit Kumar Vs Suman*



C.R.P.(MD) No.1665 of 2023

Beniwal in **Civil appeal No.7650 of 2021**, in which it was held as follows:-

28. In this Case, as observed above, the parties are both well educated and highly placed government officers. They have been married for about 15 months. The marriage was a nonstarter. Admittedly, the parties lived together only for three days, after which they have separated on account of irreconcilable differences. The parties have lived apart for the entire period of their marriage except three days. It is jointly stated by the parties that efforts at reconciliation have failed. The parties are unwilling to live together as husband and wife. Even after over 14 months of separation, the parties still want to go ahead with the divorce. No useful purpose would be served by making the parties wait, except to prolong their agony.

29. The appeal is, therefore, allowed. The impugned order dated 17th November, 2021 passed by the High Court and the impugned order dated 12th October, 2021 passed by the Family Court, Hissar are set aside.

30. In the facts and circumstances of this case, this Court deems it appropriate to exercise its power under [Article 142](#) of the Constitution of India, to grant the



C.R.P.(MD) No.1665 of 2023

WEB COPY

Appellant and the Respondent a decree of divorce by mutual consent under [Section 13B](#) of the Hindu Marriage Act, 1955, waiving the statutory waiting period of six months under [Section 13\(B\) \(2\)](#) of the said Act.

4. The observation made in the above decision case is squarely applicable to the present facts and circumstances of the case. As rightly pointed by the learned counsel for the petitioner that the parties to the proceedings are highly educated and employed. Since they have been separated for more than four years and according to them, there is no possibility of reunion and the efforts of reconciliation went in vain and the parties are not willing to live together as husband and wife, in future. Therefore, no useful purpose would be served by making the parties wait, except to prolong their agony.

5. In view of the above discussions, the present Civil Revision Petition is allowed and the impugned order dated 22.06.2023 made in I.A.No.18 of 2023 passed by the learned Subordinate Judge, Thirumayam, is set aside. The trial Court is directed to consider the



C.R.P.(MD) No.1665 of 2023

petition filed by the petitioners for divorce under Section 13(B) of the Hindu Marriage Act, thereby waiving the statutory waiting period of six months under Section 13(B)(2) of the said Act and dispose of the same on merits and in accordance with law. No costs.

12.07.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

cp

Note: Issue order copy on 13.07.2023

To
The Subordinate Judge,
Thirumayam,
Pudukkottai District



WEB COPY



C.R.P.(MD) No.1665 of 2023

K.GOVINDARAJAN THILAKAVADI, J.

cp

C.R.P.(MD) No.1665 of 2023

Dated: 12.07.2023