

S/L 1
11.09.2025
Court No.17
SD

IN THE HIGH COURT AT CALCUTTA
CIVIL REVISIONAL JURISDICTION

CO 1082 of 2018

Sri Tapan Dey
Vs.
Smt. Sanghamitra Dey

Mr. Malay Bhattacharya
Mr. Subhrojyoti Ghosh

...for the Petitioner.

Mr. Yash Vardhan Deora

...for the Opposite Party.

The petitioner is the husband of the opposite party.
The parties do not have any child in their marriage.

The petitioner has filed a suit being Matrimonial Suit No.92 of 2015 for dissolution of his marriage with the opposite party by a decree of divorce. The said suit is pending before the 16th Court of learned Additional District Judge at Alipore, District: 24 Parganas (South).

In the said suit, the application for alimony *pendente lite* filed by the opposite party was registered as Misc. Case No.10 of 2016. An order of alimony *pendente lite* was passed in the said misc. case on February 22, 2018. The husband has challenged the said order in the instant application under Article 227 of the Constitution of India.

In course of hearing of the present revisional application, the parties were sent to mediation and in such process, the parties have arrived at a settlement. In terms of the said settlement, the parties have filed a joint petition under Section 13B of the Hindu Marriage Act, 1955 for dissolution of their marriage by decree of divorce on mutual consent. The application has been registered as Matrimonial Suit No.2562 of 2025 before the said 16th Court of learned Additional District Judge at Alipore.

This Court is informed that the said learned court has fixed November 13, 2025 as the date for first motion of the said application.

Learned counsel for the parties jointly place reliance on the decision of the Hon'ble Supreme Court in the case of ***Amit Kumar vs. Suman Beniwal*** reported in **2021 SCC**

Online SC 1270 to contend that the parties are living separately since 2015 and there is no chance to salvage the marriage between them. Therefore, the learned counsel for the parties jointly pray that the gestation period of six months for the second motion as required under Section 13B(2) of the said Act of 1955 may be dispensed with.

Having heard learned counsel for the parties, perused the materials on record.

The Hon'ble Supreme Court in the case of Amit Kumar (supra) at paragraph 27 has laid down the factors need to be looked into to dispense with the cooling off period of six months to entertain an application for dissolution of marriage by mutual consent, the said paragraph is quoted below:-

“27. For exercise of the discretion to waive the statutory waiting period of six months for moving the motion for divorce under Section 13B(2) of the Hindu Marriage Act, the Court would consider the following amongst other factors:-

(i) The length of time for which the parties had been married;

(ii) how long the parties had stayed together as husband and wife;

(iii) the length of time the parties had been staying apart;

(iv) the length of time for which the litigation had been pending;

(v) whether there was any other proceedings between the parties;

(vi) whether there was any possibility of reconciliation;

(vii) whether there were any children born out of the wedlock;

(viii) whether the parties had freely, of their own accord, without any coercion or pressure, arrived at a genuine settlement which took care of alimony, if any, maintenance and custody of children, etc.”

It appears that the parties are admittedly living separately since 2015; therefore, the requirement of the waiting period of six months for the second motion, in view of the decision of the Hon'ble Supreme Court in the case of **Amit Kumar (supra)** should be dispensed with.

The 16th Court of learned Additional District Judge at Alipore, District: 24 Parganas (South) is therefore requested to

pre-pone the date fixed in the said suit and to fix a date for second motion of the said joint application for divorce on mutual consent, if the parties so apply.

It is made clear that the petitioner shall take steps for withdrawal of the Matrimonial Suit No.92 of 2015, if not already done before approaching the learned Trial Judge for pre-poning the date fixed in the Matrimonial Suit No.2562 of 2025.

CO 1082 of 2018 is disposed of with the above terms without any order as to costs.

Parties to act on the server copy of this order duly downloaded from the official *website* of this Court.

Urgent Photostat certified copy of this order, if applied for, be supplied to the parties, subject to compliance of all requisite formalities.

(Biswajit Basu, J.)