



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

FAMILY COURT APPEAL NO.33/2025

Mrs. Shreya w/o Akshay Patil Alias Miss.
Shreya d/o Dilip Dhapke (Median Name) aged
about 26 yrs., Occupation: Service, R/o. C/o
Dilip Dhapke, Plot No.9, Raut Layout, Zingabai
Takli, Godhni Road, Nagpur - 440030

... APPELLANT

...VERSUS...

Mr. Akshay s/o Anil Patil, Aged about 30
years, Occupation, Service, R/o At Masli, Tah.
Katol, Dist. Nagpur.

...RESPONDENT

Shri A.S. Tiwari, Advocate for appellant
None for respondent

CORAM : SMT. M. S. JAWALKAR, AND
PRAVIN S. PATIL, JJ..

DATED : 25.07.2025

ORAL JUDGMENT (PER SMT. M. S. JAWALKAR, J.)

. Heard learned Counsel for the appellant.

2. The appellant is challenging the order passed below

Exhibit-1, passed by learned Judge, Family Court No.4, Nagpur. The petitioner has filed the petition under Section 13 (B) of the Hindu Marriage Act, 1956. The marriage of the petitioner was solemnized on 05.01.2024 and they are separated from each other on 15.01.2024. The petition under Section 13(B) of the Hindu Marriage Act for grant of Decree of Divorce by mutual consent is filed on 04.03.2025, which is after period of one year of separation. The petitioner filed application for waiving of six months cooling period in Petition No. F-141/2025 under Section 13(B) of the Hindu Marriage Act.

3. It appears that the learned Judge, Family Court No.4, Nagpur, passed the impugned order on 19.04.2025 and dismissed the petition itself. The learned Family Court No.4, Nagpur, dismissed the petition itself, when there is application for waiving cooling period of six months as provided in Section 13(B) of the Hindu Marriage Act. Instead of dismissing the petition, the learned Judge, Family Court No.4, Nagpur, ought to have decided the application for waiving of cooling period. As such, the impugned order dated 19.04.2025 is liable to be set aside. Accordingly, we

proceed to pass the following order:

ORDER

- i) The Family Court Appeal is allowed.
- ii) The impugned order dated 19.04.2025 passed by learned Judge, Family Court No.4, Nagpur, in Petition No. F-141/2025 is hereby quashed and set aside.
- iii) The learned Judge, Family Court No.4, Nagpur, is hereby directed to restore Petition No.F-141/2025, on its original number.
- iv) The learned Judge, Family Court No.4, Nagpur, is hereby directed to consider the application for waiving cooling period on its merit afresh and if required, parties be directed to wait for six months.

4. The Family Court Appeal is disposed of accordingly.

(PRAVIN S. PATIL, J.)

(SMT. M.S. JAWALKAR, J.)

R.S. Sahare