



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

Writ Petition No.6357/2025
Shravan and another V None

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms S.M. Tripathi, Advocate for petitioners.

CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 14-11-2025.

Heard learned Counsel for petitioner nos.1 and 2.

2. It is submitted that since the challenge in the petition is to an order passed by the Family Court, rejecting the application filed by the petitioners for waiver of cooling off period in the petition seeking divorce by mutual consent, petitioner no.1 and petitioner no.2 are the only parties to the instant petition and nobody is arrayed as respondent.

3. Challenge raised by petitioner nos.1 and 2 is to an order dated 01-10-2025 passed by the Family Court, Nagpur, rejecting the application for waiver of statutory cooling off period. A perusal of the application shows that the parties have elaborately mentioned several reasons seeking waiver of cooling off period and by pointing out the relevant legal positions has prayed for waiver of cooling off period of six months under Section 13B(2) of the Hindu Marriage Act. However, on the day on which the application was filed the family Court has refused to entertain the application and rejected the application only on the count that the parties have not appeared before the Marriage Counsellor, which was a mandatory procedure in view of the judgment of the Hon'ble Supreme Court. It is pointed out that only for this reason the application

is rejected. It is also submitted that the Family Court has not decided the application on merits even though the parties have made out a case for seeking waiver of cooling off period.

4. Learned Counsel for the petitioners has placed on record an affidavit dated 14-11-2025 sworn in by petitioner no.1 in which it is stated that on 01-10-2025 the parties had in fact appeared before the Marriage Counsellor when petitioner no.1 had appeared personally and petitioner no.2 wife had appeared virtually before the Marriage Councilor Advocate Mrs. Pande. This affidavit dated 14-11-2025 is tendered across the bar and it is taken on record.

5. Be that as it may, considering the fact that the parties have filed petition seeking divorce by mutual consent demonstrating the fact that no reconciliation is possible in between them and they have consciously decided to apply for divorce by mutual consent and further pointed out the circumstances in which the cooling off period was required to be waived, it is necessary in the interest of justice to allow the parties to appear before the Marriage Counsellor once again, physically if possible or virtually.

6. Considering the fact that the impugned order is passed only because the parties had failed to appear before the Marriage Counsellor for counselling, I think this is a fit case in which an opportunity needs to be granted to the parties to appear before the Marriage Counsellor on a fixed date and thereafter the Family Court is required to pass an order on the application seeking waiver of cooling off period. Considering the fact that the petition for divorce by mutual consent was filed on 01-10-2025, it

is directed that the parties should immediately take steps for appearing before the Marriage Counsellor if possible physically or virtually, by filing appropriate application within one week.

7. In view of these circumstances, impugned order dated 01-10-2025 passed by the Family Court on the application at Exhibit-07 is quashed and set aside. Matter is remanded to the Family Court for considering the application at Exhibit-07 afresh by allowing the parties to appear before the Marriage Counsellor and thereafter the Family Court is requested to pass orders on the application at Exhibit-07 within two weeks.

8. Writ Petition is accordingly disposed of.

(Prafulla S. Khubalkar, J.)