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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.No.2418 of 2025

M.Sindhuja

... Petitioner

Vs.

Magesh

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the Docket order dated 21.04.2025 passed in I.A.No.2 of 2025 in O.P.No.276 of 2023 on the file of the Sub-Judge, Alandur.

For Petitioner : Mr.S.Ravichandran

For Respondent : Mr.B.Anand

ORDER

The present revision has been filed by the petitioner/wife to set aside the Docket order dated 21.04.2025 in I.A.No.2 of 2025 in O.P.No.276 of 2025 on the file of the Sub-Judge, Alandur, refusing to waive the cooling period of six months.



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2. Heard, the learned counsel for the petitioner/wife and the learned counsel for the respondent/husband.

3. The learned counsel for the petitioner as well as the respondent would place reliance on the decision of the Hon'ble Supreme Court in *Amardeep Singh Vs. Harveen Kaur* in Civil Appeal.No.11158 of 2017 dated 12.09.2017, where the Hon'ble Supreme Court has held that the Courts are empowered to waive the statutory period under Section 13B(2), if circumstances so warrant. One of the available circumstance, as set out by the Hon'ble Supreme Court, is that there is no possibility of the parties resolving their differences.

4. Here, the learned counsel for the petitioner as well as the respondent state that the parties have firmly decided to part ways and even the issue of permanent alimony has also been sorted out and there is no scope for any reunion at all and only under such circumstances, the waiver of the cooling period of six months was sought for. However, the Sub-Court, Alandur, has refused to waive the cooling period, stating that the waiver cannot be



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ordered in a mechanical manner.

5.As rightly contended by the learned counsel for the parties, the parties have made out a case for waiver of the cooling period of six months and without noticing that the Hon'ble Supreme Court has held that the discretion to waive the period should be guided by consideration of interests of justice, especially where there is no chance of re-conciliation and the parties have already separated. Therefore, the reasoning of the Sub-Judge that the waiver cannot be ordered in a routine manner does not arise in the facts of the present case, where the petitioner and the respondent have clearly made it clear, in no uncertain terms, that there is no reconciliation possible between them. Even in respect of the minor child born to the petitioner and the respondent, permanent arrangements have been made and therefore, the Sub-Judge ought to have seen that the request for waiver of the cooling period would clearly fall within the conditions that have been made available to the parties in *Amardeep Singh's* case.



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6. In the light of the above, the Civil Revision Petition is allowed. The Docket order dated 21.04.2025 in I.A.No.2 of 2025 in O.P.No.276 of 2025 on the file of the Sub-Judge, Alandur, is set aside. The Sub-Judge, Alandur, shall expedite the hearing of the mutual consent petition and pass orders on or before 31.07.2025. There shall be no order as to costs.

27.06.2025

Speaking/Non-speaking : Yes/No

Index : Yes / No

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WEB COPY The Sub-Judge, Alandur.

P.B. BALAJI,J.



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