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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ MAT.APP.(F.C.) 167/2025 and CM APPL. 27071/2025

SMITA JINA

.....Appellant

Through: Mr. Rajat Bhalla, Adv. with
Appellant in person

versus

AMIT KUMAR JINA

.....Respondent

Through: Ms. Amrita Sharma and Ms.
Easha Chandhok, Advs.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

ORDER

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14.10.2025

1. Through this appeal, the Appellant assails the common Judgment and Decree dated 20.03.2025 passed by the Family Court, Patiala House Courts, New Delhi, in HMA No. 1185/2024 captioned ***Smita Jina vs. Amit Kumar Jina*** and in HMA No. 1186/2024 captioned ***Amit Kumar Jina vs. Smita Jina***, granting a decree of divorce to the parties.

2. Briefly, the facts are that the parties had filed independent petitions seeking divorce from each other on the grounds set out in Section 13(1)(ia) of the Hindu Marriage Act, 1955 [hereinafter referred to as 'HMA'] and contested the said petitions. By the impugned common Judgment, the Family Court held that it is a fit case for invoking the powers vested in it under Section 10 of the Family Courts Act, 1984, to grant a decree of divorce under Section 13B of the HMA.

3. The primary grievance of the Appellant is that the impugned Judgment proceeds on a presumption of the Appellant's consent,



despite there being no explicit agreement on her part to convert her fault-based petition into one for divorce by mutual consent under Section 13B of the HMA. Furthermore, the Appellant contends that the impugned Judgment passed by the Family Court is vitiated for non-compliance with the mandatory requirements of Section 13B of the HMA, namely: (i) the filing of a joint petition by both parties; (ii) observance of the minimum six-month cooling-off period; and (iii) the making of a second motion accompanied by confirmation of consent by both parties.

4. Today, the learned counsel representing the parties are *ad idem* that the issue for consideration in the present Appeal is answered and squarely covered by the detailed Judgment of this Court in ***Upinder Kaur Malhotra v. Teghjeet Singh Malhotra, 2025 SCC OnLine Del 6165***.

5. In view of the aforesaid limited position, the impugned Judgment passed by the Family Court is set aside, while restoring separate divorce petitions, i.e., HMA No. 1185/2024 and HMA No. 1186/2024, filed by both parties to their original number to the file of the Family Court for fresh adjudication in accordance with law.

6. The parties, through their respective counsels, are directed to appear before the Family Court on 29.10.2025.

7. In view of the above, the present Appeal, along with the pending application(s), if any, stands disposed of.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
OCTOBER 14, 2025/sp/er