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

+ MAT.APP.(F.C.) 196/2025, CM APPL. 32448/2025 (Stay), CM APPL. 41954/2025 (For vacation of stay), CM APPL. 66584/2025 (For Directions against the respondent by Appellant), CM APPL. 66773/2025 (application for condonation of delay of 22 days in filing rejoinder filed by appellant) & CM APPL. 70692/2025 (Seeking direction to the appellant)

POOJA SHARMA

.....Appellant

Through: Mr. Chandra Shekhar, Mr.
Saurabh Upadhyay, Mr.
Prashant Shekhar & Ms.
Hardikaa Kalia, Advocates.

versus

SANJEEV TYAGI

.....Respondent

Through: Mr. Rahul Kaushik, Sr. Adv.
along with Mr. Bhuvneshwari
Pathak, Mr. Prateek Goswami,
Mr. Arpit Agarwal and Mr.
Garv Vikas, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

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

ORDER

19.11.2025

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1. The present Appeal, filed under Section 19 of the Family Courts Act, 1984 read with Section 28 of the Hindu Marriage Act, 1955 [“HMA”], challenges the correctness of Judgment & Decree dated 24.04.2025 passed by the Family Court, Karkardooma Courts, Shahdara District, Delhi (hereinafter referred to as FC) in case being HMA 2549/2024, titled “*Sanjeev Tyagi v. Pooja Sharma*”, whereby



the marriage between the parties was dissolved under Section 13-B of HMA.

2. It is pertinent to note that the husband instituted a petition under Section 13(1) of HMA, seeking a decree of divorce, and, the wife, in response filed a counter-claim also seeking divorce. The FC proceeded to grant decree of divorce by mutual consent as provided under Section 13-B of HMA, on the ground that both the parties wants the court to dissolve their marriage.

3. The procedure followed by the FC in the present case, is unknown to law. Under HMA, a petition filed under Section 13(1), is required to be adjudicated on merits, upon due appreciation of pleadings, evidence, and material placed on record.

4. Further, HMA also provides a provision for the grant of a decree of divorce by mutual consent, provided that joint petition is filed by the parties duly complying with the procedure prescribed Section 13-B of the Act.

5. During the pendency of the proceedings under Section 13(1) of HMA before the Learned Family Court, the parties jointly filed a separate petition under Section 13-B HMA, which was duly registered on 29.11.2023, accordingly, the first motion also came to be signed and affirmed by both the parties on the same day. However, at the stage of signing of the second motion, on 22.04.2025, the wife refused to sign the same, thereby withdrawing her consent to proceed with the mutual divorce. Since the parties could not reach any amicable settlement, the joint petition came to be dismissed as withdrawn.

6. At the cost of repetition, it is noted that whenever a petition under Section 13-B of the HMA, is filed, the FC is required to follow the procedure therein, which was also affirmed by this Court in



“Upinder Kaur Malhotra v. Capt. Teghjeet Singh Malhotra & Anr.”[2025:DHC:8491-DB].

7. After the petition filed under Section 13-B of the HMA was withdrawn, the Court could not pass a decree under Section 13-B of the HMA. In this case, the decree of divorce has been passed without recording the finding of the fact, with respect to the grounds, on which the dissolution of marriage was sought. Against this backdrop, it becomes pertinent to note that the FC while passing the Impugned Judgment failed to comply with the due procedure prescribed by law. Accordingly, the Impugned Judgment is set-aside and the case is remitted back to the learned Family Court to decide the matter afresh in accordance with the law.

8. The parties along with their respective counsels are directed to appear before the learned Family Court on 09.12.2025.

9. Learned counsel for the Respondent further submits that in the counter-claim, the wife claimed that if the husband gives his blood sample, she is prepared to give divorce.

10. This aspect can be considered by the learned Family Court in appropriate proceedings.

11. The present Appeal along with pending applications, if any, stands disposed of in the above terms.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.

NOVEMBER 19, 2025/tk/rou/ra