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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 1980/2025, CM APPL. 64313/2025-Exp, CM APPL.
64314/2025-Exp
MANAV AGARWALPetitioner

Through: Mr. Nidish Gupta, Advocate for P-1
in person alongwith Mr. Manav
Aggarwal, petitioner in person and
Ms. Riya Sarat, SPA holder
appearing through VC
Mr. Anjaneya Mishra, Advocate for
P-2

versus

NEMORespondent
Through: None

CORAM:
HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER
13.10.2025

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1. By virtue of the present petition under *Article 227* of the
Constitution of India, the petitioner seeks the following reliefs:

*“a) Allow the present petition and direct the Respondent to list
the Second Motion Divorce Petition filed by the Petitioners vide
e filing number: LTN20230002999C202500022 on 22.05.2025,
on the basis of the affidavits of the SPA holders of the
Petitioners;*

*(b) Direct the Ld. PJFC, Family Court, Patiala House Court,
Delhi to hear the Second Motion Petition of the Petitioners on
the basis of the affidavits of the SPA holders and not to insist for
the physical presence of the parties.*

*(c) Pass any such other/further order(s) which this Hon'ble
Court may deem fit and proper in the facts and circumstances of*



the present matter.”

2. It is the case of the petitioners that they are Indian citizens, currently residing in Germany and that their marriage was solemnized on 21.12.2020. However, due to some irreconcilable difference *inter se* them, they decided to put an end to their matrimonial relationship and therefore entered into a Memorandum of Settlement dated 17.02.2025.

3. Thereafter, since both petitioners were residing in Germany, they sought a decree of divorce by mutual consent by filing a joint petition under *Section 13B* (First Motion) of the Hindu Marriage Act, 1955 (**HM Act**) being HMA no. 370 of 2024 before the learned Principal Judge, Family Court, Patiala House Court, Delhi (**Family Court**) with the accompanying affidavit of the maternal aunt of the petitioner no.1/ husband as his Special Power of Attorney (**SPA**) holder as also the accompanying affidavit of the father of the petitioner no.2/ wife as her SPA holder. The learned Family Court allowed the First Motion *vide* judgment dated 29.04.2025 after recording the statements of both the SPA holders of the petitioners herein.

4. Thereafter, on 22.05.2025, the petitioners filed a joint petition under *Section 13B* (Second Motion) of the HM Act, once again accompanied by the affidavits of the very same SPA holders.

5. Learned counsels for both petitioner nos.1 and 2 submit that despite the above, though the same is visible on the portal, it is not being listed solely since it is not accompanied by the personal affidavits of both petitioners. They submit that there is no such legal requirement. For this, they seek to rely upon the judgment passed by the Hon'ble Bombay High Court on 06.04.2018 in Writ Petition ST. No.1788/2018 entitled



“Harshada Bharat Deshmukh v. Bharat Appasaheb Deshmukh”.

6. At the outset, the Court finds that there is no bar under *Section 10* of the Family Courts Act, 1984 for a party/ the parties to be represented by a Power of Attorney holder in a petition under *Section 13B* of the HM Act. Therefore, there is neither any mandatory personal presence of the parties required nor their personal affidavits have to be accompanied along with the joint petition under *Section 13B* of the HM Act. Moreover, since the HM Act is a benevolent piece of legislation containing no such requirement, the Trial Court cannot press upon the same, when there is no plausible reason given by it. Particularly, since the joint petition under *Section 13B* (First Motion) of the HM Act by the very same petitioners has already been allowed by the learned Family Court under similar circumstances.

7. In fact, the Hon’ble Supreme Court in ***Amardeep Singh v. Harveen Kaur*** [(2017)8SCC746] while dealing with *Section 13B* HM Act Petition has held as under:

“Needless to say that in conducting such proceedings the Court can also use the medium of video conferencing and also permit genuine representation of the parties through close relations such as parents or siblings where the parties are unable to appear in person for any just and valid reason as may satisfy the Court, to advance the interest of justice.”

8. Therefore, in view of the aforesaid as also considering the fact that the petitioners were duly represented by their respective SPA holders, who are none other than the father of petitioner no.2 and maternal aunt of the petitioner no.1, and who have been duly authorised by the respective petitioner nos.1 and 2, as also since, the petitioners are residing outside the



territorial jurisdiction of Delhi and are unable to appear physically before the learned Family Court due to unforeseen reasons and can only appear through video conferencing, there exists no impediment for the petitioners to allow the filing and listing of the joint petition under *Section 13B* (Second Motion) of the HM Act whereby they are seeking a decree of divorce by mutual consent, in the present form.

9. In view thereof, the Principal Family Courts, Patiala House, New Delhi is requested to allow the listing of the aforesaid joint petition under *Section 13B* (Second Motion) of the HM Act filed by the petitioners herein.

10. Needless to say, both the petitioner nos.1 and 2 shall be appearing through video conferencing on the date as and when called for.

11. Accordingly, with the aforesaid directions, the present petition alongwith the pending applications stands disposed of.

SAURABH BANERJEE, J

OCTOBER 13, 2025/So