

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI

CIVIL REVISION PETITION No.1405 OF 2026

% Dated 04.05.2026

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1.

2.

Vs.

..... Petitioners

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NIL

..Respondents

JUDGMENT PRONOUNCED ON: 04.05.2026

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA

1. Whether Reporters of Local newspapers may be allowed to see the Judgments?
2. Whether the copies of judgment may be marked to Law Reporters/Journals
3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment?

*** THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**
+ CIVIL REVISION PETITION No.1405 OF 2026

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NIL

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! Counsel for the petitioner : Mrs. Ayesha Azma S

^ Counsel for the respondent :

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> HEAD NOTE:

? Cases referred

1. (2023) 17 SCC 648

2. AIR 2017 SC 4417

THE HON'BLE SRI JUSTICE VENKATESWARLU NIMMAGADDA**CIVIL REVISION PETITION NO.1405 OF 2026****ORDER:**

1. This civil revision petition under Article 227 of the Constitution of India is filed challenging the docket order passed by the Judge, Family Court, Prakasam District, Ongole in I.A.No.203 of 2026 in F.C.O.P.No.12 of 2026 dated 12.04.2026.
2. The brief facts are that the petitioners were married on 04.12.2022 at Ongole and blessed with daughter on 02.09.2023. Due to matrimonial disputes, they have been living separately for about one year and are not on cordial terms. They filed FCOP No.12 of 2023 under Section 13-B of the Hindu Marriage Act, 1955 seeking divorce by mutual consent. The petition was taken on file on 12.01.2026 and posted to 13.07.2026, observing the statutory six-month cooling-of period.
3. The petitioners thereafter filed I.A. No.2023 of 2023 seeking advancement of the hearing. They stated that they have been living separately for more than one and a half years, got settled all disputes, and decided to dissolve the

marriage at the earliest . As per the settlement, the second petitioner agreed to pay Rs.62 lakhs to the first petitioner and to their minor daughter towards their share and permanent alimony, apart from house plots already settled in their favour. The first petitioner agreed to withdraw the criminal cases filed against the second petitioner. In view of the settlement, the matter was sought to be referred for mediation to record the terms.

4. Upon hearing both parties and perusing the material on record, the Court below found no sufficient grounds or urgency to waive the statutory cooling-off period or to advance the matter. It held that the six-month period is mandatory to enable the parties to reconsider their decision and to attempt for reconciliation. The Court further observed that referring the matter for mediation before completion of the said cooling-off period would defeat its object and purpose. Accordingly, I.A. No.203 of 2026 was dismissed. Aggrieved by the said order, the present civil revision petition is preferred.

5. During the hearing, Mrs. Ayesha Azma S, learned counsel for the petitioners, submitted that pending the divorce petition, the parties have amicably settled all issues, including property distribution, child care, criminal cases, and

permanent alimony. In view of the said settlement, they filed I.A. No.203 of 2026 seeking for advancement of the main petition for grant of a decree of divorce. However, the Court below dismissed the application solely on the ground of non-compliance with the statutory six-month cooling-off period.

6. She further submitted that Section 13-B contemplates a minimum period of six months to enable reconciliation, mediation, and reconsideration of the decision to dissolve the marriage. In the present case, the said object has already been achieved, as the parties have resolved all disputes and have consciously decided to part ways. Therefore, insisting on the cooling-off period would serve no purpose, and the petitioners are entitled to seek advancement of the petition for grant of divorce by mutual consent. She further contended that under Section 13-B(2) of the Hindu Marriage Act, the cooling-off period is directory and not mandatory. Hence, the Court has the discretion to waive the said period in appropriate cases where the parties have settled all issues and the purpose of the provision has already been fulfilled.

7. Reliance was placed on the judgments of the Hon'ble Supreme Court of India in **Amit Kumar vs. Suman Beniwal**¹ and **Amardeep Singh vs. Harveen**

¹ (2023) 17 SCC 648

Kaur² and on the strength of the principle laid down in the above judgments, learned counsel would contend that, when the efforts at reconciliation have failed and parties are unwilling to live together as husband and wife, even after separation of one year, parties still want to go ahead with divorce, no useful purpose would be served by making parties wait, except to prolong their agony and requested to set-aside the order passed by the Court below.

8. Heard Mrs. Ayesha Azma S, learned counsel for the petitioners and perused the material available on record.

9. The core issue for consideration is whether the Court below has the discretion to waive or deviate from the six-month cooling-off period prescribed under Section 13-B(2) of the Hindu Marriage Act.

10. A perusal of the affidavit filed by the petitioners in I.A. No.203 of 2026 before the Court below discloses clearly and categorically that all *inter se* disputes between the petitioners i.e. wife and husband have been amicably settled. The settlement includes permanent alimony, custody and welfare of the minor child, and distribution of properties. The petitioners have thus placed on record a complete settlement, leaving no subsisting issues for adjudication.

² AIR 2017 SC 4417

Moreover, they are very much clear to part ways. In such circumstances, the principles laid down by the Hon'ble Supreme Court in ***Amardeep Singh vs. Harveen Kaur and Amit Kumar vs. Suman Beniwal*** assume significance, wherein it has been held that the cooling-off period stipulated under Section 13-B(2) is not mandatory but directory, and can be waived in appropriate cases where the Court is satisfied that the parties have genuinely resolved their disputes and that there is no possibility of reconciliation.

11. This Court reiterates that the object of Section 13-B(2) is to provide a reasonable opportunity to the parties to reconsider their decision and explore the possibility of reunion. However, when the parties have been living separately for a considerable period, have settled all supplementary issues, and have consciously decided to part ways, the continuation of the statutory period would serve no useful purpose. On the contrary, it would result in prolonging the agony and hardship of the parties. The law does not mandate the preservation of a matrimonial bond that has irretrievably broken down and where there is no likelihood of reconciliation.

12. In the given facts and circumstances of the present case, this Court is of the opinion that the conditions laid down by the Hon'ble Supreme Court for

waiver of the cooling-off period stand fulfilled. The settlement arrived at between the parties appears to be voluntary and genuine. Therefore, it seems that there is no impediment in granting the relief sought by the petitioners.

13. In the result, civil revision petition is allowed, setting-aside the docket order passed by the Judge, Family Court, Prakasam District, Ongole in I.A.No.203 of 2026 in F.C.O.P.No.12 of 2026 dated 12.04.2026. Further, the Court below is directed to take-up the petition filed for advancement of matter and pass appropriate orders for dissolution of marriage by mutual consent, in accordance with law, as expeditiously as possible.

14. Consequently, miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE VENKATESWARLU NIMMAGADDA

Date: 04.05.2026
Note; copy by 06.05.2026
b/o
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