

Serial No. 69
Supplementary List-1

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Pronounced on : 06.05.2026
Uploaded on : 14.05.2026

CM(M) No. 85/2026
CM No. 2776/2026

Kanchan Devi

.....Petitioner

Through: Mr. Amit Gupta, Sr. Advocate with
Mr. Rajeev Chargoira, Advocate

Vs

Amit Sharma

.....Respondent

Through:

CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(06.05.2026)

- 01.** The petitioner has come up with the present petition invoking supervisory jurisdiction of this Court under article 227 of the Constitution of India being aggrieved of the manner in which the divorce petition filed by the respondent against the petitioner in terms of proceedings is being dealt with by the court of learned Principal District Judge, Samba taking the divorce petition as a routine civil case to follow the rituals of appearance and reply without any intervening exercise at the first

instance of mediation and reconciliation as is expected from the court.

- 02.** The petitioner and the respondent on account of their own choice had entered wedlock notwithstanding their castes status and even solemnized marriage by reference to arya samaj's rituals and customs on **18.07.2024**.
- 03.** Said marriage between the petitioner and the respondent is said to have fallen on a **discordant note** leading the respondent to come up with a divorce petition under **Section 13 of Hindu Marriage Act, 1955** before the court of learned Principal District judge, Samba filed on **21.07.2025** which resulted in summoning of the petitioner.
- 04.** The petitioner through her counsel entered appearance on **05.08.2025**. Without undertaking an exercise in terms of **Section 23(2) of the Hindu Marriage Act, 1955** to probe a scope for an amicable reconciliation or settlement of the marital feud between the two and also unmindful of spirit of **Order 32-A of the Code of Civil Procedure, 1908** which in turn casts a duty upon the court with respect to the civil suit or proceedings to make an endeavour at first instance consistent with the nature and circumstances of the case to assist the parties in

arriving at a settlement in respect of the subject matter of the suit, the court of learned Principal District Judge, Samba has gone by thrusting mode of inviting reply/objections from the respondent-(petitioner herein) to the extent of even putting the respondent on a last opportunity to file reply to the petition, in terms of an order dated **06.04.2026** bearing a rider that in the event of non-filing of reply/objections by the respondent-(petitioner herein) to the divorce petition of the respondent herein-Amit Sharma, the petitioner's right to file reply-cum-objections shall be deemed to be closed.

- 05.** This Court, on a number of occasions, has reminded the Presiding Officers of the courts below that they must bear a clear distinction in their mind that by reference to a civil jurisdiction the nomenclature of a civil court **is to be referred** and not that of a criminal jurisdiction whereas in the present case, the Presiding Officer of the court below has passed the order bearing court reference under the designation of Principal Sessions Judge, Samba. There is no jurisdiction vested in a Principal Sessions Judge, to entertain a matrimonial petition under the Hindu Marriage Act, 1955. Instead, the order should have been bearing the reference as that of the Principal District Judge, Samba.

- 06.** This Court directs **learned Registrar General, High Court of Jammu & Kashmir and Ladakh** to address a communication to all the Presiding Officers of the courts below, civil as well as criminal, to ensure their sensitivity towards reference of the court in the context of the jurisdiction being exercised by reference to order/s passed in cases of given jurisdiction.
- 07.** Now coming to the present case in hand, none of the orders on the file, certified copies of which are on record, reflects that any thought has been spared from the end of the court of learned Principal District Judge, Samba towards reconciliation exercise and this is where the court of learned Principal District Judge, Samba **has erred** itself of putting the petitioner on a last opportunity to file objections.
- 08.** Filing of reply/objections by the respondent in a matrimonial petition that too of a divorce would mean that the petitioner as a respondent would have to come forth with her version vis-à-vis allegations being made against her from the end of the respondent who as a petitioner is seeking divorce.
- 09.** The reply to be insisted to be filed by the respondent is, thus, then not going to smoothen the strained

relationship obtaining between the two and, therefore, any exercise undertaken thereafter for a mutual reconciliation would be nothing but a meaningless venture. Although, an attempt to reconcile the marital dispute between the husband and wife can be taken up at any given stage of litigation but then the first initiative has to be at the very inception of the matrimonial litigation when the respondent gets a call to appear in the case.

10. Accordingly, this Court is exercising its supervisory jurisdiction without inviting the respondent in the present case to cause appearance as there is no such requirement from the end of the respondent to appear in this case and join the issue.
11. The court of learned Principal District Judge, Samba, is first directed to undertake an exercise for reconciliation or mediation and in the event of failure of the same then only to take up the matter for adjudication on its merits, in which regard, the petitioner as a respondent, can be put to an opportunity for coming up with her reply/objections to the divorce petition.
12. The petition is accordingly, **disposed of**.

13. Copy of this order be forwarded by the **learned Registrar Judicial, Jammu** to the court of **learned Principal District Judge, Samba** and also to the **learned Registrar General, High Court of Jammu & Kashmir and Ladakh.**

**(RAHUL BHARTI)
JUDGE**

**JAMMU
06.05.2026
SUNIL**

**Whether the order is speaking ? : Yes/No
Whether the order is reportable ? : Yes/No**

