Tiwari

1-MCA-235-2026-29-10-2026.docx

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
MISC. CIVIL APPLICATION NO. 235 OF 2026

Akshata Anant Rane Alias
Akshata Aditya Todankar …Applicant

Vs.

Aditya Umesh Todankar …Respondent

Mr. Sagar Sonawane a/w. Ms. Madhusmita Sahoo, Mr. Sachin Bhagat for the applicant.

CORAM : GAURI GODSE, J.

DATE : 29th OCTOBER 2026

ORDER :

1. This application is filed under Section 24 of the Code of Civil Procedure, 1908 (“CPC”) for transfer of the marriage petition from the Civil Court at Kalyan to the Civil Court at Mangaon, District Raigad. The parties filed the marriage petition bearing HMP No. 410 of 2025 for dissolution of marriage by mutual consent under Section 13-B of the Hindu Marriage Act.

2. The applicant made a grievance in this application that the marriage petition was unnecessarily kept pending; therefore, it be transferred to another court. Hence, this court called for a status report from the concerned trial judge. On

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

receipt of intimation of this Court's order, the concerned trial judge, instead of sending the report, preponed the scheduled date and allowed the marriage petition in the absence of the parties and their advocates.

3. Pursuant to the various orders passed by this Court, the learned Central Project Coordinator ("CPC") has placed on record a final report dated 27th October 2026. After going through the digital record and the reports received from the District System Administrator, Kalyan, the learned CPC has submitted that because the matter was taken up on board on 2nd September 2026 and disposed of on the same day, the earlier fixed date, i.e. 16th October 2026, got automatically removed from the system and from the e-roznama. Learned CPC explained the procedure by which the date automatically changes in the system without human intervention; as a result, the entry in the e-roznama also changes.

4. Considering the reports filed on record, it is clear that on 17th August 2026, the parties were intimated that the next date was 16th October 2026. Accordingly, an entry was also made in the e-roznama, and an auto-generated message

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

was sent to the parties on their registered mobile numbers. However, without intimating the parties or their advocates, the matter was taken up on board on 2nd September 2026. Without hearing the parties or their advocates, the Court disposed of the matter by granting a decree of dissolution of marriage.

5. Learned counsel for the applicant has tendered a printout of the case status, which is accessible to the parties and advocates. The case status records that the first date of hearing was 20th March 2025, and the decision date as 2nd September 2026; the case status shows in the column of nature of disposal as “Uncontested - ALLOWED/GRANTED AFTER FULL HEARING”. The earlier reports tendered in this court and even the report submitted by the concerned Civil Judge show that the matter was disposed of in the absence of the parties and their advocates.

6. Learned counsel for the applicant has tendered a photocopy of the certified copy of the judgment dated 2nd September 2026 received by the parties. The judgment records appearances on behalf of the parties. The judgment nowhere reveals that the parties or their advocates were

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

heard. In paragraph 6 of the judgment, the learned Judge has recorded that he has perused the written notes of argument. Despite the judgment being passed in the parties' absence and by preponing the scheduled date, the case status available to the parties and advocates reflects that the matter was disposed of after full hearing.

7. The concerned civil judge has placed on record a report stating that, in view of a writ issued by the High Court, the matter was preponed and taken up on board on 2nd September 2026. The reason mentioned in the report for taking up the matter on board by preponing the date is shocking. This Court, vide order dated 21st August 2026, called for a status report only with reference to the grievance made on behalf of the parties that the marriage petition for divorce by mutual consent is kept pending for recording evidence and arguments for no reason. Thus, the concerned judge was expected to submit a true and correct report on the status of the proceedings. However, instead of preparing a report, the concerned Judge hastily took up the matter on board before the scheduled date without intimating the parties or their advocates. The concerned Judge went so far as to pass a judgment for divorce in the absence of the

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

parties without following the proper procedure.

8. This court has clarified in earlier orders that calling for a report was undertaken to regulate the court proceedings required by law while hearing a petition for divorce by mutual consent and to ensure fairness in the justice delivery system. If, in such circumstances, the courts start taking up the matter without intimating the parties, it is likely to cause serious prejudice and hardship to the parties. Fortunately, in the present case, there was no issue of exchange of any valuables by the parties, payment of any maintenance or permanent alimony, and, more particularly, no issue of grant of custody or access of minor children. The parties in the present case have no issues. However, where parties apply for divorce by mutual consent, in the majority of cases, there are issues involved regarding maintenance, permanent alimony, custody and access of minor children. Hence, the matter cannot be disposed of by preponing the date without intimating the parties.

9. The object and purpose of the procedure to be followed in a petition filed for divorce by mutual consent under Section 13(B) of the Hindu Marriage Act, 1955, is well settled. This

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

Court, in ***Ayushi Doshi*** [1]**,** observed that this Court had come across various orders passed by the Family Court and found that the legal principles settled by the Apex Court in ***Amardeep Singh Vs. Harveen Kaur***[2] were not correctly understood and not followed by the Family Courts. This Court therefore summarised the guiding principles settled by the Apex Court in ***Amardeep Singh***. The Hon'ble Supreme Court observed that the object of the waiting period is to safeguard against a hurried decision where reconciliation is otherwise possible. Thus, the waiting period is a precautionary provision to avoid any injustice to any party and to rule out any possibility of reconciliation. The Hon'ble Apex Court, in paragraphs 19 and 20, has observed as under:

> *"19. Applying the above to the present situation, we are of the view that where the Court dealing with a matter is satisfied that a case is made out to waive the statutory period Under Section 13B(2), it can do so after considering the following:*
>
> *i) the statutory period of six months specified in Section 13B(2), in addition to the statutory period of one year Under Section 13B(1) of separation of parties is already over before the first motion itself;*

1 2024 SCC OnLine Bom 3458.

2 (2017) 8 SCC 746

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

ii) all efforts for mediation/conciliation including efforts in terms of Order 32-A Rule 3CPC/Section 23(2) of the Act/Section 9 of the Family Courts Act to reunite the parties have failed and there is no likelihood of success in that direction by any further efforts;

iii) the parties have genuinely settled their differences including alimony, custody of child or any other pending issues between the parties;

iv) the waiting period will only prolong their agony."

20. Since we are of the view that the period mentioned in Section 13-B(2) is not mandatory but directory, it will be open to the Court to exercise its discretion in the facts and circumstances of each case where there is no possibility of parties resuming cohabitation and there are chances of alternative rehabilitation."

10. Thus, the guiding principles must be followed by correctly understanding the object of Section 13B of the said Act. Despite the well-settled legal principles regarding the procedure required to be followed in a proceeding filed under Section 13B of the Hindu Marriage Act, 1955, the concerned judge has preponed the matter and disposed of it without hearing the parties. This shows complete disregard for the well-settled legal principles, as discussed in the aforesaid decisions.

11. It is shocking that, despite the matter being disposed of

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

in this manner, the case status on the official website shows that it was disposed of after full hearing to the parties. The learned CPC has annexed the CIS-generated audit report, user log, and 'B diary' of the matter to show the technical data. Based on these reports, the learned CPC has stated that the change in the e-roznama is system-generated. The report also states that, as the matter was e-filed, no physical record of the case is maintained, and the Roznama is also not maintained in physical format. A physical roznama is required to be maintained under the Civil Manual. In the absence of any amendment to the Civil Manual, maintaining a physical roznama cannot be dispensed with.

12. In the present case, not maintaining a physical roznama and making entries only in the e-roznama resulted in disposal of the matter in the absence of the parties, and the CIS system reflecting incorrect information to the litigants and advocates. If a physical roznama was maintained, the entry dated 17th August 2026 recording the next date as 16th October 2026, if changed, would amount to tampering with the roznama. Similarly, if the entry dated 17th August 2026 in the e-roznama was automatically changed due to a technical error in the system, it would also amount to tampering with

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

the e-roznama.

13. As with a roznama maintained in physical form under the Civil Manual, an e-roznama is also part of the court record pertaining to the case. Therefore, if any entry is to be altered in the e-roznama, it must be by an order of the court recording reasons. Such an order also must be part of the court record. In the absence of passing any order recording reasons for the alteration in the e-roznama, it would amount to tampering with the court record.

14. Such automatic change in the e-roznama, which would display an incorrect status of the matter and also display incorrect information, cannot be the purpose and object of digitisation. Hence, it is necessary to take appropriate steps for reflecting the correct status of the matter in the case status on the website and maintain a correct e-roznama.

15. The date given to the parties and advocates cannot be changed without notice to the parties or their advocates. If a date is preponed, the Judge must pass an order by recording reasons for preponement. Such an order must be part of the court record and must also be reflected in the e-roznama and on the website. More particularly, when a proceeding is filed

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

under Section 13B of the Hindu Marriage Act, 1955, the concerned trial Judge must be satisfied before granting the decree as prayed for, and must follow the required procedure in view of the various guidelines issued by the Apex Court and this Court.

16. The learned CPC shall, therefore, take appropriate steps to initiate the necessary change/improvement in the system so that it does not permit automatic change in the e-roznama without specific orders passed by the court and also recorded in the system, which is accessible to the parties and the advocates. Till such improvement/change in the system takes place, if any entry in the e-roznama is made that automatically alters the earlier entry, an order to that effect must be passed, recording the reasons, and such order must be part of the court record and must also be uploaded on the website.

17. In this application, the reason for transfer is solely that the application was unnecessarily kept pending. Immediately after the order dated 17th August 2026, the concerned judge preponed the date and hastily disposed of the matter. In view of the disposal of the marriage petition, learned counsel for the applicant, on instructions, has submitted that the

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57

applicant is not willing to pursue the grievance made in the application further. However, considering the shocking procedure followed in the matter, this Court had called for the necessary reports. In view of the disposal of the marriage petition, the prayer in the application is rendered infructuous. In view of the report submitted by the learned CPC and the directions issued in the above paragraphs, the petition need not be kept pending any longer.

18. The miscellaneous application is, therefore, disposed of.

19. Learned counsel for the applicant as well as his colleagues, and the advocate appearing before the trial court, have assisted this Court in ascertaining the correct status of the matter and the actual procedure followed in the concerned civil court. I therefore record my appreciation for their assistance.

20. A copy of this order be forwarded to the learned CPC and the learned Registrar (Judicial-I) to take appropriate steps to comply with the directions issued in this order.

[GAURI GODSE, J.]

Uploaded on - 05/11/2026 Downloaded on - 05/11/2026 21:41:57