

# Nupur Aggarwal vs Rishi Aggarwal on 8 October, 2021

**Author: Vipin Sanghi**

**Bench: Vipin Sanghi, Jasmeet Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
MAT.APP.(F.C.) 67/2014  
NUPUR AGGARWAL

Through: Ms. Akriti Tyagi, Advocate  
appellant in person.

versus

RISHI AGGARWAL

Through: Mr. Tanmaya Mehta & Mr.  
Sharma, Advocates with  
in person.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI  
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% 08.10.2021

1. This is a joint application moved by the parties under Order XXIII Rule 3 read with Order XLI Rules 32 & 33 CPC with a prayer to record their settlement in terms of the settlement deed dated 03.10.2021 and to dissolve the marriage between the parties in terms of the settlement deed by modifying the decree of divorce dated 26.04.2013 passed in favour of the respondent under Section 13(1)(ia) of the Hindu Marriage Act into a decree of divorce by way of mutual consent under Section 13B of the Hindu Marriage Act.

2. Both the parties are present with their respective counsels. Learned counsels have drawn our attention to the terms of the settlement. Both parties state that they are satisfied with the terms & conditions of the settlement and they have arrived at the settlement with full understanding, without any coercion and out of their own free will. The parties state they withdraw all allegations made by them against each other. The terms of the settlement appear to be fair, just & reasonable and there is no impediment in accepting the same.

3. We had required learned counsels to assist us on the aspect whether - in these appellate proceedings, we can modify the decree of divorce passed under Section 13(1)(ia) of the Hindu Marriage Act into decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act.

4. Learned counsel for the respondent has placed before us a compilation of several judgments of

High Courts which satisfy us that we are empowered to substitute/ modify the decree passed in the present case under Section 13(1)(ia) of the Hindu Marriage Act with one under Section 13B of the Hindu Marriage Act.

5. We may only refer to some of the decisions relied upon by the learned counsels.

(i) K. Omprakash vs. K. Nalini, 1983 (3) APLJ 284.

(ii) Justin Abraham vs. Preethy N. Thomas, reported as MANU/KE/0973/2019 dated 11.01.2019.

(iii) Linish P. Mathew vs. Mruthula Mathew reported as MANU/KE/0942/2012, dated 20.07.2012.

(iv) Santosh Lalmani Tiwari vs. Aaradhana Devi Santosh Tiwari, MANU/MH/1783/2012, dated 25.09.2012.

(v) Dhiran Harilal vs. N. Mansu, MANU/GJ/0071/1988, dated 10.09.1987.

6. The parties have been living separately since July 2009. Considering the fact that they are both mature and one of their children is already a major and they have been litigating for a substantially long period of time, we see no reason for our not waiving the period of six months and not permitting the parties to seek divorce under Section 13B straightaway.

7. We may also refer to the decision of the Supreme Court in Civil Appeal No. 11158/2017 titled Amardeep Singh Vs. Harveen Kaur, wherein the Supreme Court has held that in the circumstances of a given case, the Court may waive the said period straightaway.

8. Accordingly, the decree passed by the Family Court vide judgment dated 26.04.2014 passed under Section 13(1)(ia) of the Hindu Marriage Act is modified with a decree of divorce under Section 13(B) of the Hindu Marriage Act. This is subject to the parties complying with all the terms & conditions of the settlement deed placed on record. The parties shall remain bound by the terms of settlement.

9. The appeal stands disposed of in the aforesaid terms.

10. The Decree Sheet be prepared in terms of the settlement deed.

VIPIN SANGHI, J JASMEET SINGH, J OCTOBER 08, 2021