

How to File and Draft a Divorce Petition?

Introduction

A matrimonial petition is a petition which deals with matters relating to matrimony. There is no statutory definition for the term 'matrimony'. Matrimony means relating to marriage. Therefore, any petition which deals with ancillary or incidental matters related to marriage is called matrimonial petitions. Following are some examples:

1. Petition for divorce;
2. [Application for maintenance](#)

Application for maintenance of self and/or children;

3. Application for custody of children;
4. Petition for judicial separation;
5. Application for the restitution of conjugal rights;
6. Petition for dissolution of marriage;

The above list is only an illustrative list and not an exhaustive list.

Rules of matrimonial petitions

[There are no](#)

There are no separate rules for matrimonial petitions. The procedure of drafting and filing is similar to that of the Code of Civil Procedure. The particulars to be mentioned in the petition and a written statement is similar to the petitions in matrimonial petitions. Title of the court in which the petition is being filed; name, age, and description of the respective parties; the body of the petition which contains the facts of the case and lastly, the relief claimed from the court. An affidavit and a verification must accompany the same. The petition must contain all the documents which the party wishes to rely upon. Process fee needs to be paid.

Section 21 of the Hindu Marriage Act, 1956, states that all proceedings under the said Act shall be regulated as far as may be, by the Code of Civil Procedure. If the High Court of the concerned State has made rules regarding the matter, then the given rules shall be applicable.

As it can be seen from the above paragraph, the rules of pleadings given in the Code of Civil Procedure apply *mutatis mutandis* to matrimonial petitions.

The Limitation Act, 1963, is also applicable to matrimonial petitions. The Limitation Act prescribes various timelines for filing the petition before the court. The petitioner/plaintiff must file his petition/plaint within the given time. The Limitation Act's object is to make the citizens vigilant about their rights and not to harass the defendants for any ancient cases.

Drafting of a matrimonial petition

Typically, at the time of the drafting of the petition, the following particulars must be contained in the petition:

1. The place and the date of marriage. (As it is a matrimonial petition, it is usual to show that the parties are married.)
2. The religion of the parties. (It assists in determining which statute shall be applicable. The uniform civil code is still not in force, and so different personal laws are applicable to different people.)
3. The residence of the parties at the present time. (It assists in determining where to serve the summons. It also helps in determining the jurisdiction of the court.)
4. The last residing place of the married couple. (It also helps in determining the jurisdiction of the court.)
5. The names of the children, their age, their address. (It is crucial in the cases of custody and maintenance of children. It may also show the state of marriage in some cases.)
6. Full particulars and details of the litigation between the current parties pending or disposed of in any other court in India. (It assists in checking whether the doctrine of res sub judice or res judicata shall be applicable. It also shows the present and past state of the relationship between the married couple.)
7. In case the respondent has deserted the petitioner, the date of such desertion. How much time has elapsed since such desertion. The reason for such desertion. (It assists in the grant of divorce. Under the Hindu Marriage Act, there must be a desertion of a minimum of 2 years for the grant of divorce.)
8. The grounds for filing the present petition/application. If the petition is for divorce [Section 13 of the Hindu Marriage Act], it is compulsory to mention the reason for filing the petition. Following are some of the grounds mentioned in the Hindu Marriage Act:
 1. Cruelty;
 2. After solemnization of marriage, either spouse voluntarily had sexual intercourse with any person other than the spouse;
 3. Desertion;

4. Any spouse has been suffering from venereal disease in a communicable form;
5. Any spouse has renounced the world by entering into any religious order;
6. Any spouse has not been heard of as being alive for a period of seven years or more by those persons who would have naturally heard of it, had the party been alive;
7. That the husband has, since the solemnization of marriage, been guilty of rape, sodomy, or bestiality.

This is only an illustrative list. There are other grounds as well.

1. If the petition is under section 13B, divorce by mutual consent, the same has to be mentioned in the petition. The reasons must be mentioned as well.
2. The financial standing of the parties must also be mentioned. This is of particular importance at the time of demand for maintenance. It assists in determining who should give maintenance and who should receive maintenance. It also helps in determining the amount of maintenance.

It is essential to note the fact that Order II, Rule 2, and section 11 (Res judicata) of the Code of Civil Procedure is directly applicable to matrimonial proceedings. Therefore, it is crucial to ask all the reliefs in one go. The court may not allow any subsequent petitions/applications.

Divorce Petition Format

Divorce Petition on Field of Mutual consent is below

IN THE MATTER OF NAME : AGE : OCCUPATION : ADDRESS : Mobile No. Email ID

....PETITIONER NO. 1 AND NAME : AGE : OCCUPATION : ADDRESS : Mobile No. Email ID

....PETITIONER NO. 2 A Petition For divorce by mutual consent U/s (SPECIFY UNDER WHICH ACT, whether) U/S 13B Of Hindu Marriage Act Or U/S 28 Of Special Marriage Act Or U/S 10 A Of Divorce Act

The petitioner above named submits this petition praying to state as follows; 1.

That the petitioners were married to each other at on dated..... according to the.....rites and customs/ceremonies.

Or before the Marriage Registrar(Name of City/Town) 2.

That the petitioner no. 1 before marriage wasand petitioner no. 2 was

➤ State the pre-

marital status of the parties whether bachelor/ spinster/ divorcee/ widow/ widower.

➤ Mention the maiden name of the wife. ➤ Mention the religion and domicile of

the parties ➤ Clearly mention the date since when the parties are staying separately 3.
 State the number of children. Their names and age/ date of birth and custody. 4.
 State the details about pending litigation. Under which section, Act, case number and court. Next date fixed before the competent court. 5.
 State the details about joint immovable property, if any. 6. CONSENT TERMS
 The consent terms must include what the parties decided about
 ➤ The permanent alimony, ➤ Custody and access of children, ➤ Division of property/ execution of any regd document in respect of immovable property Exchange of articles/jewellery/utencils etc, ➤ Withdrawal of pending litigations, and
 ➤ Any other term to which the parties are consenting) 7.
 That the petitioners do hereby declare and confirm that this petition preferred by the m is not collusive. 8.
 That there is no coercion, force, fraud, undue influence, misrepresentation etc. in filing the present petition, and our consent is free. 9.
 That there is no collusion or connivance between the parties in filing this petition. 10.
 That this Court has jurisdiction to try and decide this petition as Mention clearly how this court has jurisdiction. ➤ Whether the marriage was solemnized at Mumbai.
 ➤ That the parties lastly stayed together at Mumbai .
 ➤ The wife is staying at Mumbai. ➤ Any other reason supported by document.
 11. That the court fee of Rs. 100 is affixed. 12.
 The petitioners will rely upon the documents, a list whereof is annexed herewith. 13.
 The petitioners pray that; a)
 This Hon'ble court be pleased to dissolve the marriage between the petitioners, solemnized on by the decree of divorce by mutual consent under section b)
 Such other and further relief's as this Hon'ble Court may deem fit and proper in the nature and circumstances of the case; VERIFICATION
 I age :..... years, residing at the petitioner
 no. 1 do hereby solemnly declare that what is stated in the foregoing paragraphs of the petition is true to best of my own knowledge and belief save and except for the legal submission. Solemnly Declared at On this(Date) Signature of the petitioner no. 1 Advocate
 I age :..... years, residing at the
 petitioner no. 2 do hereby solemnly declare that what is stated in the foregoing paragraphs of the petition is true to best of my own knowledge and belief save and except for the legal submission. Solemnly Declared at On this(Date) Signature of the petitioner no. 2 Advocate
 Documents to be attached : ➤
 ID proof of both the parties (Copy of Pan Card/ Driving license /Adhar Card / Election Card/ Passport).
 ➤ Marriage proof (Marriage Registration Certificate/ Invitation Card/ Marriage Photograph/ Affidavit of blood relative) (Minimum two documents mandatory). ➤
 Residential proof (Passport/ Adhar Card/ Election Card/ any other permissible document). A
 Additional Documents if required : ➤ Birth Certificate of minor child. ➤
 Registered document for transfer of property.
 ➤ Copy of receipt if articles, jewellery, or utensils are exchanged

2. Divorce Petition By Hindu Wife on The Ground of Cruelty

Divorce Petition by Hindu Wife on the Grounds of Cruelty

IN THE FAMILY COURT BANDRA, MUMBAI

M.J. PETITION NO. ____ of ____

Smt. _____,

daughter of _____,

aged _____ years, residing at _____ Petitioner.

Versus

XYZ, son of _____,

_____ years of age,

residing at _____,

carrying on _____ business..... Respondent.

In the matter of dissolution of marriage under Section 13 of the Hindu Marriage Act, 1956:

And

In the matter of the Family Courts Act, 1954;

And

In the matter of Divorce of the Petitioner with the Respondent on grounds of cruelty.

TO,

THE HON"BLE PRINCIPAL JUDGE

AND OTHER JUDGES OF THIS

HON"BLE COURT.

THE HUMBLE PETITION OF

THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHEWETH:

1. That the Petitioner and the Respondent were lawfully married according to traditional Hindu Vedic rites on the _____ day of __02 at the _____ in Mumbai. Hereto annexed and marked Exhibit 'A' is a copy of the marriage certificate evidencing the said marriage.
2. The Petitioner and the Respondent are Hindu by birth and they continue to be so.
3. After the said marriage, the Petitioner and the Respondent cohabited and lived together at the Petitioner's house for about six years. There were two issues out of this marriage viz. LML (son of _____ years of age) and HIJ (daughter of ____ years of age).

4. The Petitioner states that from the month of ____ 02, the Respondent began to ill-treat the Petitioner, and from the month of ____ 02, began to physically assault the Petitioner without any cause whatsoever. For some time, the Petitioner made no complaint and underwent such ill-treatment, hoping that the Defendant would see better sense. However, on or about ____ month of 02, the Respondent attacked the Petitioner with a stick and inflicted serious injuries leading to multiple fractures in hand and leg of the Petitioner. The Petitioner thereupon lodged a complaint at the ____ Police Station, being complaint No. _____. The Petitioner craves leave to refer to and rely upon a copy of the said complaint when produced.

5. The Petitioner says that as a result of the aforesaid injury inflicted on the Petitioner by the Respondent, the Petitioner had to be hospitalized for six days. The Petitioner craves leave to refer to and rely upon the Medical Certificate issued by Dr. _____ who treated the Petitioner at _____ Hospital.

6. The petitioner says that even thereafter, the Respondent continued to treat the Petitioner in a cruel and violent manner. The Petitioner says that such cruelty has cause an apprehension in the mind of the Petitioner that it will be harmful and injurious for the Petitioner to continue to live with the respondent.

7. There is no collusion or connivance between the Petitioner and the Respondent in filing this Petition.

8. The Petitioner is claiming alimony @ Rs. ---- per month from the Respondent.

9. No other proceedings with respect to the marriage between the Petitioner and the Respondent have been filed in this Honorable Court or in any other Court in India.

10. The Petitioner and the Respondent were married in Mumbai and last cohabited in Mumbai within the territorial limits of the jurisdiction to entertain, try and dispose of the present Petition.

11. The Petitioner being a lady is exempt from payment of Court fees.

12. The Petitioner will rely on documents, a list whereof is annexed hereto.

The Petitioner therefore prays:

- That this Honorable Court be pleased to decree a dissolution of the said marriage between the Petitioner and the Respondent;

- That the Petitioner be granted alimony @ Rs. _____/- per month;

- That the Respondent be ordered and decreed to pay to the Petitioner the costs of this Petition; and

- In the alternate to prayer (c) above, the Respondent be directed to give the Petitioner a sum of Rs. _____/- so as to enable her to purchase suitable accommodation for herself;

- That pending the hearing and final disposal of this petition, the Respondent be directed to provide the Petitioner with a monthly allowance of Rs. _____/- to meet her personal expenses and the expenses of running the matrimonial home;

- For such further and other reliefs as the nature and circumstances of the case may require.

Petition drawn by:

Mr. ABC,

Advocate, Sd/- Petitioner

High Court, Mumbai.

VERIFICATION

I, _____, the Petitioner above named, do hereby solemnly declare and say that what is contained in paragraphs _____ to _____ is true to my knowledge and that what is state in paragraphs _____ to _____ is stated on legal advice and I believe the same to be true.

_____ day of ____02. Sd/-

Before me,

Registrar/Superintendent,

3. SUGGESTED FORMAT OF THE MUTUAL DIVORCE PETITION DRAFT

BEFORE THE PRINCIPAL JUDGE, FAMILY COURT AT (NAME OF THE PLACE)
HMA PETITION No. _____ OF
IN THE MATTER OF:
(Name and address of the Husband) Petitioner No.1
(AND)
(Name and address of the wife) Petitioner No.2

PETITION UNDER SECTION 13 (1) (I-B) OF THE HMA FOR DISSOLUTION OF MARRIAGE BY MUTUAL CONSENT
MOST RESPECTFULLY SUBMITTED

MOST RESPECTFULLY SUBMITTED AS UNDER:

1. The marriage between the parties was solemnized on ----at ----, by Hindu rites and ceremonies. The said marriage was consummated thereafter and the parties lived as husband and wife at the matrimonial home i.e. ----. The particulars showing the details of the parties to the present petition is given here under:

HUSBAND

BEFORE MARRIAGE

Age Address Status

HUSBAND

AFTER MARRIAGE

Age Address Status

WIFE

BEFORE MARRIAGE

Age Address Status

AFTER MARRIAGE

Age Address Status

2. That there is no child born out of the wedlock of the parties. (or describe the name age and date of birth of the children and also describe the agreement about the custody of the children between the couple specifically in the Mutual Divorce Petition Draft).

3. That the parties could not adjust with each other due to temperamental differences and their marriage has broken down irretrievably and it is now not possible between the parties to live as husband and wife anymore.

4. That all the efforts of reconciliation between the parties to continue the present marriage have failed and there are no further chances of reconciliation between the parties anymore.

5. That the parties are residing separately since _____ and there is no cohabitation between the parties since then. ([Seek specific legal advice on the issue as it varies for Hindus and Christians then mention it in Mutual Divorce Petition Draft](#))

6. That the parties have now decided to dissolve the marriage legally through a decree of divorce on mutual consent. The parties have settled all their claims, counterclaims, etc. and the respondent-wife has received her entire Stridhan, Permanent alimony, maintenance, etc. and there is no due with regard to any other claim between the parties now. ([Seek online legal service for the drafting of the mutual divorce agreement which regulates the entire terms and conditions of mutual divorce](#))

7. That the party has decided to withdraw all the complaints, counter complaints against each other.

8. That the present petition is not being filed in collusion.

9. That there are no other divorce proceedings pending before any other court.

10. That the matrimonial home of the parties was at -----hence this court has the jurisdiction to grant the decree of divorce as prayed for.

11. That there are no legal impediments in the grant of the decree of divorce to the parties on the basis of mutual consent.

12. That the terms and conditions between the parties are contained in the MOU signed and executed between the parties which are being attached as a part of the present petition and the parties undertake to comply with the same.

PRAYER

It is most respectfully prayed that the court may accept the present petition and grant a decree of divorce between the parties thereby, dissolving the marriage between the parties.

Any other order which the court may deem fit and proper in the facts and circumstances of the present case be also passed in favor of the petitioners.

Petitioner No.1

Petitioner No.2

Affidavit for Divorce Petition under Section 13(1)(i) of Hindu Marriage Act on the Ground of Adultery.

IN THE COURT OF THE _____ JUDGE AT _____

H.M.A. PETITION NO. _____ OF 20__

IN THE MATTER OF:

MRS. WI _____

PETITIONER

VERSUS

MR. HU _____ & ANR

RESPONDENTS

AFFIDAVIT

I, Ms. _____ Wife of _____ Daughter of _____
aged _____ years, presently residing at _____, do
solemnly affirm and say as follows:

1. That I am the Petitioner in the accompanying Petition under Section 13(1)(i) of Hindu Marriage Act, 1955 and well acquainted with the facts of the case.
2. That I have gone through the contents of the accompanying Petition, I reaffirm the contents of the Petition, which are not being repeated here, for the sake of brevity.
3. That, my marriage with the respondent was solemnised at _____, on _____, as per Hindu rites and ceremonies.
4. That, details laid out in the accompanying petition, with regard to my age, status and place of residence of the petition before marriage and at the time of filing this petition, may be treated as part of this petition.
5. That, no child was born out of the wedlock between the respondent and me.
6. That the respondent is guilty of committing adultery as the respondent is living with the co-respondent and has failed to return to the matrimonial home.
7. That, the respondent has completely withdrawn from the company of the petitioner since the aforementioned date.
8. That, the petition is not presented in collusion with the respondent.
9. That, there is no other legal ground why the relief should not be granted.
10. That, there has not been any unnecessary or improper delay in filing this petition.

11. That, there have not been any other previous proceedings between _____ the _____ parties.

Signed at _____ this _____ day of _____, 20__

DEPONENT

VERIFICATION

I, the above named deponent do hereby verify on oath that the contents of the affidavit above are true to my personal knowledge and nothing material has been concealed or falsely stated therein.

Signed and verified this _____ day of _____, 20__ at _____

DEPONENT

Solemnly affirmed and signed before me by the deponent, who is personally known to me, on this the _____ day of _____, 20__.

COUNSEL FOR THE DEPONENT

Section 13(1) in The Hindu Marriage Act, 1955

(1) Any marriage solemnised, whether before or after the commencement of this Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party

(i) has, after the solemnisation of the marriage, had voluntary sexual intercourse with any person other than his or her spouse; or

(ia) has, after the solemnisation of the marriage, treated the petitioner with cruelty; or

(ib) has deserted the petitioner for a continuous period of not less than two years immediately preceding the presentation of the petition; or

Indian Divorce Act, 1869

NO. 1-PETITION BY HUSBAND FOR A DISSOLUTION OF MARRIAGE WITH DAMAGES AGAINST CO-RESPONDENT, BY REASON OF ADULTERY/p>

(Sections 10 and 34)

In the (High) Court of

To the Hon'ble Mr. Justiceor To the Judge of

Theday of 19

The petition of A.B. of

Sheweth,

1. That your petitioner was on theday of,..... one thousand nine hundred andlawfully married to C.B., then C.D., spinster at (a)
2. That from his said marriage, your petitioner lived and cohabited with his said wife at..... and at, in and lastly at, in....., and that your petitioner and his said wife have had issue of their said marriage, five children, of whom two sons only survive, aged respectively twelve and fourteen years.
3. That during the three years immediately preceding the day of one thousand nine hundred andX.Y. was constantly with a few exceptions, residing in the house of your petitioner..... at aforesaid, and that on diverse occasions during the said period, the dates of which are unknown to your petitioner, the said C.B. in your petitioner's said house committed adultery with the said X.Y.
4. That no collusion or connivance exists between me and my said wife for the purpose of obtaining a dissolution of our said marriage or for any other purpose.

Your petitioner, therefore, prays that this (Hon'ble) Court will decree a dissolution of the said marriage, and that the said X.Y. do pay the sum of rupees, 5,000 as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Court seems fit.

(Signed) A.B. (b).

Form of Verification

I, A.B., the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(a) If the marriage was solemnized out of India, the adultery must be shown to have been committed in India.

(b) The petition must be signed by the petitioner.

Petition by Husband for Dissolution of Marriage with Damages against Co-respondent by Reason of Adultery

.

In the High Court of.....
To the Hon'ble Mr. Justice.....
(or to the Judge of.....)
AB.....Petitioner

versus

versus

CB.....Respondent
XY.....Co-respondent
The humble petition of AB of (full name and address)
Sheweth:

1. That the parties to the petition were and are domiciled in India and Christian by faith and religion.
2. That on the.....day of.....your petitioner was lawfully married to CB, then CD, a spinster aged about.....years at..... and the said marriage is still subsisting.
3. That ever since his said marriage, your petitioner lived and cohabited with his said wife from time to time at various places, viz....and lastly at.....in or about.....and that your petitioner and his said wife have had several issues of their said marriage, viz.,.....children named.....who are aged.....respectively and.....years, the respective dates of their birth being.....day of..... andday of.....
4. That during the.....years immediately preceding the day ofXY was constantly, with few exceptions, residing in the house of your petitioner at.....aforesaid and that on diverse occasions during the said period, the dates of which are unknown to your petitioner, the said CB in your petitioner's said house committed adultery with the said XY. State briefly the circumstances from which the petitioner came to the conclusion as to adultery.
(If the marriage was solemnised out of India, the adultery must be shown to have been committed in India.
5. That there was never nor is at present any collusion or connivance between the petitioner and his said wife for the purpose of obtaining dissolution of their said marriage or for any other purpose.)
6. That your petitioner has not condoned any of the acts of adultery on the part of the respondent.

7. Your petitioner, therefore, prays that this (Hon'ble) Court might be pleased to pass a decree for dissolution of the said marriage and that the said XY do pay the sum of Rupees.....as damages by reason of his having committed adultery with your petitioner's said wife, such damages to be paid to your petitioner, or otherwise paid or applied as to this (Hon'ble) Court seems fit.
Signed AB

Verification

I, AB, son of.....aged.....by occupation service residing At.....do hereby solemnly affirm and say as follows.

I am the petitioner above-named and I know the facts and circumstances of the case.

The statements in paragraphs 1, 2, 3, 4, 5 and 6 of the petition are true to my knowledge and belief and that I have not suppressed any material fact. I sign this verification this.....day of.....at the Court House at.....

Before me Signature

Notary Advocate

PART E—RULES UNDER THE HINDU MARRIAGE ACT, 1955 In exercise of the powers conferred by Section 21 of the Hindu Marriage Act, 1955 (No. 25 of 1955), the Punjab High Court has made the following rules :—

(2) Every such notice shall be accompanied by a copy of the petition or application. The required number of copies of the petition or application shall be supplied by the petitioner or applicant at the time of its presentation in Court. 10. Upon a petition presented by a husband for divorce on the ground of adultery, the petitioner shall make the alleged adulterer a co-respondent. The petitioner may, however, be excused from so doing on any of the following grounds with the permission of the Court :— (a) That the respondent is leading the life of a prostitute and that the petitioner knows of no particular person with whom the adultery has been committed; (b) that the name of the alleged adulterer is unknown to the petitioner although he has made due efforts to discover the same; (c) that the alleged adulterer is dead. 11. Where a husband is charged with adultery with a named person, a true copy of the pleadings, containing such charge shall unless the Court for good cause shown otherwise directs, be served upon the person with whom adultery is alleged to have been committed, accompanied by a notice that such person is entitled, within the time therein specified, to apply for leave to intervene in the cause. 12. (a) A respondent or a co-respondent or a woman to whom leave to intervene has been granted under these respondents rules, may file in the Court an answer to the petition. (b) Any answer which contains matters other than a simple denial of the facts stated in the petition shall be verified in respect of such matters by the respondent or co-respondent, as the case may be, in the manner required by the rules for the verification of petitions and when the respondent is husband or wife of the petitioner, the answer shall contain a declaration that there is not any collusion or connivance between the parties. Copies for respondent. Petition on ground of adultery. Adulterer to be impleaded as party. True copy of pleadings to be served on adulteress Pleadings of respondents and intervener to be verified. Vol. II 4 Ch. 1-E. (c) Where the answer of a husband alleges adultery and prays for relief, a certified copy thereof shall be served upon the

alleged adulterer, together with a notice to appear in like manner as on a petition. When in such a case no relief is claimed the alleged adulterer, shall not be made a co-respondent but a certified copy of the answer shall be served upon him together with a notice that he is entitled within the time therein specified to apply for leave to intervene in the proceedings and upon such application, he may be allowed to intervene, subject to such direction, as may then be given by the Court. 13. Any person, not a party to the proceedings, may be permitted by the Court to intervene and show that the allegations made by the petitioner are contrary to facts and that the proceedings are collusive. Such permission shall not be granted unless the person seeking to intervene files an affidavit in support of his position and satisfies the Court that it is proper to give such permission. Such person shall, when he first appears in Court, file a proceeding stating his or her address for service. 14. Whenever in any petition presented by a husband, the alleged adulterer has been made a co-respondent and the adultery has been established the Court may order the co-respondent to pay the whole or any part of the costs of the proceedings; Provided that the co-respondent shall not be ordered to pay the petitioner's costs- (i) if the respondent was, at the time of the adultery living apart from her husband and was leading the life of a prostitute, or (ii) if the co-respondent had not, at the time of the adultery, reason to believe the respondent to be a married woman. 15. Every Court shall maintain a register in which the details regarding petitions shall be entered and it shall conform to Civil Register No. III maintained for Divorce and Matrimonial cases. 16. The forms given in the Appendix to these rules may, with necessary modifications, be used in the proceedings under the Act. (High Court Notification No. 271-Genl/XXVII-19, dated the 22nd November, 1956). Permission of Court necessary to intervene. Adulterer to pay whole or part of costs. Register to be maintained. Forms. Vol. II 5 Ch.

1-E. APPENDIX Form A (Rule 5.) In the District Court at _____
 Matrimonial and Divorce Jurisdiction Case No. _____ Date of Institution _____
 _____ Petitioner. Versus
 _____ Respondent.
 _____ Co-respondent. To
 _____ . Whereas
 _____ has presented a petition/ applicaton against you
 for _____ under section _____ of the Hindu Marriage Act, 1955. (No. 25 of 1955). (A copy of the said petition/application is sent herewith), you are hereby summoned to appear in this Court on the _____ at 10 o'clock in the forenoon to answer the said petition/application, either in person or by recognised agent duly instructed and able to answer all material questions relating to the case, or who shall be accompanied by some other person able to answer all such questions or by an Advocate or Pleader similarly instructed or accompanied and you are directed to produce on that day all documents upon which you intend to rely in support of your defence. You may file an answer to the petition/application on the date mentioned above. You are further informed that in default of your appearance on the day and in the manner above-mentioned the petition/application will be heard and determined in your absence. Given under my hand and the seal of this Court, this _____ day of _____, Nineteen hundred and ____ Dated _____ Sd. _____ District Judge
 at _____ Note:- Hours of attendance at the Court are from 10 A. M. till 4 P.M

Petition Under Section 18 of Land Acquisition

SYNOPSIS That the Petitioner is filing the present Writ Petition in Public Interest under Article 32 of the Constitution of India seeking mandamus to cancel / struck down the contradictory amendments made by state governments to the State Acts and Rules by distorting basic structure of the original Central Act, The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter called "the Central/Principal Act") and The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Social Impact Assessment and Consent) Rules, 2014 (hereinafter called "the Central Rules"), through ordinances under Article 254(2) of the constitution of India, whereby the basic structure of the Original central Act and Rule has been changed to give exemption to large categories of projects from consent provisions, Social Impact Assessment, Objections by affected citizens and participation of local bodies etc, thereby violated Fundamental right guaranteed to citizens of India under Article 14, 19(1)(g) and 21 of the Constitution. Through the above said ordinances by Central Government and many state governments a large number of projects, primarily linear category projects like industrial corridors, expressways, highways etc are exempted from very important consent provisions, social impact assessment, participation of representative local bodies like Gram Sabha in Social Impact Assessment study, expert appraisal processes, public hearing, objections, and safeguard provisions to safeguard food security Bar & Bench (www.barandbench.com) etc. All these provisions were termed as core spirit of the central Act 2013 and Central Rules 2014. Further to this, the amendments making collector a sole authority to make enquiry to their satisfaction is to suppress people's voices and extending widespread corruption in upcoming cases. The said amendments made by the State Acts also diluted the provision for return of unutilized land. The central act had a provision to return unutilised land to the people when if it remained unutilized for more than 5 years. It also had provision for fresh award if the compensation to majority of affected people not paid after declaration of Award. In all most all state amendments, it is tried to either extend the period of making the acquisition void and changing the payment of compensation the beneficiaries by declaration of award and depositing the compensation with the court or the state treasury. Even though "land" is a matter in the State list, the "acquisition and requisitioning of property" finds place in the Concurrent list. The manner in which the Concurrent list works is that if there is a central law on any subject in the list, a state law cannot bypass the same. But the State Governments have passed Land Acquisition Acts and Rules for States by amending the provisions of the Central Act passed by Parliament and created conflict by violating the principle that the State Acts cannot override Central Acts, in the event of conflict the central legislation will prevail state laws, even though items are in concurrent list. The states cannot amend states Acts, even if the item is in concurrent list, if the State Act is in conflict with Bar & Bench (www.barandbench.com) Central Act. These amendments made by the states are also destroying and violating the basic structure of the Central Act. Even though there is exception to this principle under Article 254(2), it does not mean or cannot mean that the state amendment can destroy or violate even the basic structure of the central legislation. That in 2014, the Central government introduced amendments to The Right to fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act) diluting the stringent provisions of social impact assessment and consent clauses in the 2013 Act by the promulgation of the Land Acquisition Ordinance under Article 123 on the last day of December 2014. The provisions of the ordinance were sought to be kept alive by repeated promulgation on April 3 and May 30 of 2015. The Central Ordinance eventually lapsed on August 31, 2015. The stage then shifted to the states. Several states then sought to implement the content of the Ordinance by routing it through their respective state legislatures. That the said amendments are

made by violating Article 21 of the Constitution of India and have adversely affected the rights of livelihood of land owners and farmers. This Hon'ble Court many times held that Article 21 is not meant for animal existence of citizens but the right to live life with dignity which includes right to livelihood also. 'Life' in Article 21 of the Constitution is not merely the physical act of breathing. It does not connote mere animal existence or continued drudgery Bar & Bench (www.barandbench.com) through life. It has a much wider meaning which includes right to live with human dignity, right to livelihood, right to health, right to pollution free air, etc. Right to life is fundamental to our very existence without which we cannot live as human being and includes all those aspects of life, which go to make a man's life meaningful, complete, and worth living. Thus, the bare necessities, minimum and basic requirements that is essential and unavoidable for a person is the core concept of right to life. The Central Act of 2013 was brought to give effect to pre existing fundamental right to livelihood of citizens. It ensures that livelihood will not be taken away unless: 1) it is in public interest and that is seen by social impact assessment 2) The affected citizens are given rehabilitation. The amendments made without considering the above factors will take away fundamental rights of the citizens. That some of the state have amended the state Land Acquisition acts and State rules and created conflict with Central Act and Central Rules the remaining states have not done amendment to their State Land Acquisition Acts and Rules. That means citizens in different states will be forced to follow different laws/ rules and it is discrimination and violation of Article 14 of the constitution of India. The manner in which the states have carried out amendments raises serious issues about the constitutionality of such measures. Under Article 254 of the Constitution, if any provision of a state law is inconsistent with the Central law in respect of any matters falling in the Concurrent List, then the Bar & Bench (www.barandbench.com) state law is void to the extent of the repugnancy. However, the state law would prevail if the assent is obtained from the President under Article 254(2). The amendments to the State Acts have been passed by the state legislatures relying upon Entry 42 of the Concurrent List. Once the Parliament had enacted a right under the 2013 Act, the states could amend such law and make it applicable in the state only if the state law was reserved for the consideration of the President and assent accorded under Article 254(2). That some states like Andhra Pradesh (Section 30A of the Andhra Pradesh State Act) and Telangana not only diluted the central act provisions but also brought provisions of voluntary land acquisition under which they can enter into mutual agreement with land owners and payment of lumpsum amount (Section 31A) to other affected persons for Rehabilitation and Resettlement. The Central act and Central Rules have identified not only land owners but also placed other affected persons under the purview of Rehabilitation and Resettlement and consent provisions. The state amendments will reject the purpose of central act and will bring money and muscle power again in centre to grab more land. Other states have also brought section 31A through amendments to state acts to pay the lumpsum amount in case of projects exempted from Social Impact Audit and consent provisions as listed in 10A. That as per central act 70% consent of land owners is necessary for Public Private Participation Project. The state amendments Bar & Bench (www.barandbench.com) have removed the consent clause of PPP paving way for many private projects that are running under the grab of PPP. In PPP Projects, tax payers money is spent while acquiring land and creating infrastructure whereas in the profit making stage private players take away the maximum share.

IN THE SUPREME COURT OF INDIA

EXTRA ORDINARY ORIGINAL JURISDICTION

WRIT PETITION (C) NO. _____ OF 2018 (P.I.L)

PUBLIC INTEREST LITIGATION

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

MEDHA PRAVIN PATKAR & ORSPETITIONERS

VERSUS

UNION OF INDIA & ORSRESPONDENTS

AFFIDAVIT

I, _____, aged about __ years, S/o _____,

presently at New Delhi, hereby solemnly affirm and state as under:-

1. That I am the Petitioner in the aforementioned writ petition and as such well conversant with the facts of the case and I am competent to swear this affidavit.
 2. That I have read and understood the contents of the Synopsis and list of dates (pages) and the Writ Petition running into pages to are true to my knowledge and belief and the legal submissions made in the Petition are on advice received and believed to be true and correct.
 3. That the Annexures are true copies of their respective originals.
- Bar & Bench (www.barandbench.com)
4. That this Petition is only motivated by public interest. I affirm that I have no personal gain, private motive or oblique reason in filling this Public interest litigation.
 5. That I Have done whatsoever enquiry that was possible and I state that no relevant facts in my knowledge have

been withheld.

DEPONENT

VERIFICATION:

I, the deponent above named, do hereby verify that the contents of paragraph to of the above affidavit are true and correct to my knowledge and belief and no part of it is false and nothing material has been concealed there from.

Verified by me at _____ on this day of , 2018.

DEPONENT

FORMAT OF WRIT PETITION

A SYNOPSIS AND LIST OF DATES (Specimen enclosed)

B FROM NEXT PAGE

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

CIVIL WRIT PETITION NO. OF 2005

IN THE MATTER OF

.....Petitioner

versus

....Respondents

PETITION UNDER ARTICLE _____ OF THE CONSTITUTION OF

INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF

_____ UNDER ARTICLE _____ OF THE CONSTITUTION OF INDIA.

To

Hon'ble The Chief Justice of India and His Lordship's Companion

Justices of the Supreme Court of India. The Humble petition of the Petitioner abovenamed.

MOST RESPECTFULLY SHEWETH :

1. Facts of the case
2. Question(s) of Law
3. Grounds

4. Averment:-

That the present petitioner has not filed any other petition in any High Court or the Supreme Court of India on the subject matter of the present petition.

PRAAYER

In the above premises, it is prayed that this Hon'ble Court may be pleased:

(i)

(ii) to pass such other orders and further orders as may be deemed necessary on the facts and in the circumstances of the case.

FOR WHICH ACT OF KINDNESS, THE PETITIONER SHALL

AS INDUTY BOUND, EVER PRAY.

FILED BY:

PETITIONER-IN-PERSON

DRAWN:

FILED ON:

C The Writ Petition should be accompanied by:

(i) Affidavit of the petitioner duly sworn.

(ii) Annexures as referred to in the Writ Petitioner, Rs.2/- per annexure.

(iii) 1+5 copies of the Writ Petition are required

(iv) Court fee of Rs.50/- per petitioner (In Crl. Matter no court fee is payable)

(v) Index (As per Specimen enclosed)

(vi) Cover page (as per Specimen enclosed)

(vii) Any application to be filed, Rs. 12/- per application

(viii) Memo of appearance, Rs. 5/- Court fee.

Petitioner-in-person may see a copy of WP (kept with AR-IB) to have practical knowledge about drafting of petition.

I N D E X

Sl. No. PARTICULARS PAGES

1. Synopsis and List of Dates

2. Writ Petition alongwith Affidavit

in support

3. Annexures

4. Application if any

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

CIVIL WRIT PETITION NO. OF 2005

.....Petitioner

Versus

.....Respondent

P A P E R - B O O K

FOR INDEX KINDLY SEE INSIDE

FILED BY:

(ADVOCATE FOR THE PETITIONER/

PETITIONER-IN-PERSON