

**Sangeetha and Another Vs. -**

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**SooperKanoon Citation : [sooperkanoon.com/954058](http://sooperkanoon.com/954058)**

**Court : Chennai**

**Decided On : Oct-19-2012**

**Reported in : 2013(1)LW85**

**Judge : R.S. Ramanathan**

**Appeal No. : C.R.P(PD)No. 3753 of 2012 & M.P. No. 1 of 2012**

**Appellant : Sangeetha and Another**

**Respondent : -**

**Advocate for Pet/Ap. :** For the Petitioners: Mrs. B. Karpagam, Advocate. For the Respondent: -----

**Judgement :**

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order, dated 25.6.2012, passed in I.A.7 of 2012, in H.M.O.P.No.29 of 2012, on the file of the Subordinate Court, Arni, Thiruvannamalai District.)

1. This Civil Revision Petition is filed by the revision petitioners against the order passed by the Subordinate Judge, Arni, in I.A.7 of 2012, in H.M.O.P.No.29 of 2012, in refusing to entertain the application filed by the revision petitioners, to waive the period of six months, as per the provisions of Section 13-B of the Hindu Marriage Act, 1955 ( hereinafter referred to as 'the Act').

2. It is submitted by the learned counsel appearing for the revision petitioners that the parties are husband and wife and the marriage between them took place, on 09.03.2008 and right from the date of their marriage, they are living separately, and having realized that the marriage between them had broken down irretrievably, they agreed to dissolve the marriage by mutual consent and hence, they filed H.M.O.P.No.29 of 2012, on the file of the Subordinate Court, Arni, Thiruvannamalai District. They also filed I.A.No.7 of 2012, to dispense with six months statutory period, as per Section in 13-B of the Act. That application was closed by the Court below and therefore, the impugned order has to be set aside and period of six month may be dispensed with.

3. The learned counsel relied upon the decision of this Court in [K.Thiruvengadam and another] (2008) 1 C.T.C. 739, wherein, it has been held that the provisions of 13-B (2) of the Act, cannot be read as mandatory and the Court has got powers to waive that period. The learned counsel also relied upon the decision of the Hon'ble Supreme Court in [Devinder Singh Narula Vs. Meenakshi Nangia ], (2012) STPL Web 448 S.C. in support of her contention.

4. I am unable to accept the contention of the learned counsel for the revision petitioners. In the case of [Neeti Malviya Vs. Rakesh Malviya], (2010) 6 S.C.C. 413, the Hon'ble Supreme Court has held that the period under Section 13-B (2) cannot be dispensed with. Further, in the judgment in [Devinder Singh Narula Vs. Meenakshi Nangia ] (supra) the Hon'ble Supreme Court dispensed with the period by exercising extra ordinary power under Article 142 of the Constitution of India. In the judgment rendered in [Neeti Malviya's case (supra), the Hon'ble Supreme Court has dealt with the matter elaborately and referred the matter for the Three-Judge Bench decision and till a final decision is taken in that aspect, I have to follow the judgment in Neeti Malviya's case (supra). Hence, the prayer sought for by the revision petitioners for dispensing the period of six months cannot be entertained.

5. In the result, this Civil Revision Petition fails and it is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.