

Assam Schedule VIII. Form No. 143
High Court Form No. (J) 13

ORDER-SHEET FOR CIVIL COURT

DISTRICT : SONITPUR

IN THE COURT OF THE DISTRICT JUDGE, SONITPUR, TEZPUR

T.S. (M) Case No. 79 of 2020

Sri Vaibhav Agarwal @ Vaibhav Bhoot Vs Smti Nidhi Agarwal

Serial No. of Orders	Date	Order	Signature
	<u>16-11-2021</u>	<p>This is an application u/s 13(1) (i-a) and (i-b) of Hindu Marriage Act, 1955 for dissolution of marriage by decree of divorce on the ground of the cruelty and desertion.</p> <p>The petition has been filed by Sri Vaibhav Agarwal @ Vaibhav Bhoot against his wife Smti Nidhi Agarwal stating that their marriage was consummated on 08-06-2014 in Tezpur according to Hindu Rituals and Marwari Customs in the presence of the family members of both the parties and after the marriage the petitioner Sri Vaibhav Agarwal @ Vaibhav Bhoot cohabit with the respondent at Tezpur Town, District- Sonitpur, Assam. It is submitted that initially the marital life between the parties was cordial but gradually the respondent started to behave rudely with the petitioner and his family members and also started to quarrel with the petitioner and his family members without any rhyme or reason. It is also stated that respondent criticize Tezpur Town as a place not worth of living and also stated that had she known about Tezpur earlier she would not have married the petitioner. The respondent gradually changed her attitude and behavior towards the petitioner and his family members and she even started to quarrel with her old ailing in-laws. In the meantime, on 04-07-2015 the respondent delivered a baby girl named Vaani Agarwal at B.K. Memorial Hospital, Tezpur. The petitioner</p>	

and his family members took all the measures to take care of the respondent and child in every possible way before pregnancy and post pregnancy but there was no positive change in the behavior of respondent towards the petitioner husband and his family members. The respondent started to behave irrationally and used to threaten the petitioner and his parents that she would leave their house and divorce the petitioner as she do not want to stay in a small town like Tezpur. On one occasion the respondent crossed all the boundaries and ended up assaulting the mother of the petitioner. It is submitted that the respondent and her mother wanted the petitioner to end all ties with his family members and move to Guwahati. It is further pleaded that the respondent behaved very strangely therefore petitioner consulted a senior psychiatrist S. Chakravarty, MBBS, MD (Psych) on 21-05-2016 who after thorough examination prescribed some medication for the respondent and advised to review after one month. The respondent used to take medicine for psychological problems since before marriage and this information was concealed from the petitioner and his family members. Petitioner and his family members tried their level best to satisfy the respondent but all their attempt went in vain as she kept on demanding to shifting to Guwahati which was not possible for the petitioner. Therefore, finding no way out petitioner and his family members informed the matter to the family members of respondent and then both the family members had detailed discussion and as per the discussion they decided that the petitioner and the respondent would part ways in amicable manner and to that effect an MOU was also signed between the parties on 06-04-2017. Accordingly, the respondent took all her belongings including Jewelries, all the Stridhan articles. Thereafter, the respondent

willfully and deliberately left her matrimonial home on 06-04-2017 after executing the said MOU. Moreover, the respondent had filed an FIR before ALL Women Police Station on 17-06-2017 against the petitioner and his parents including his paternal uncle and after receiving the said FIR a case has been registered as All Women Police Station Case No.104/2017 u/s 498 (A) IPC r/w Section 4 of Dowry Prohibition Act. The respondent further filed a petition seeking maintenance for herself and her minor child u/s 125 of Cr.P.C. before the Family Court, Guwahati which was numbered as FC(Crl.) Case no. 174/2017. The Hon'ble Family Court, Guwahati vide its order dated 22-05-2017 directed the petitioner to pay an amount of Rs. 12,000/- to the respondent as an interim maintenance. During the course of the proceedings of the said case, the respondent remained adamant with her previous demand that the petitioner needs to leave his old ailing parents and move to Guwahati to continue their conjugal life and she further demanded Rs. 70,000/- per month as monthly maintenance for her and her daughter. The petitioner tried his level best to fulfill the desire and requirements of the respondent but the petitioner being the legally married husband of the respondent has been deprived of all his marital rights and also from the fatherly love and affection of his minor daughter and as such the petitioner suffered a lot.

Thereafter, the situation reached such a stage that petitioner has to file the present petition seeking decree of divorce on the ground of cruelty and desertion.

However, when the case has been proceeding at the stage of hearing on petition No. 846/2020 a joint petition No. 1706/2021 has been filed accompanied with a photocopy of MOU between the parties stating inter alia that though initially petition was filed u/s 13(1)(i-a) and (i-

b) of Hindu Marriage Act, 1955 but, today they seek to convert the said petition into a petition u/s 13(B) of Hindu Marriage Act, 1955 with a prayer to grant divorce by mutual consent stating further that they have settled their disputes outside court and they are no longer interested to proceed further in the case. It was further agreed by the parties that the petitioner paid an amount of Rs. 30,00,000/- (Rupees Thirty Lakh) only to the respondent as permanent alimony and in this regard a Memorandum of Understanding had already been executed between the parties on 13-04-2021 at Guwahati vide Sl. No. 8880 deed No. 1675 before the Marriage Officer, Kamrup (Metro) which is annexed with the petition marked as Annexure- A and the petitioner had already returned the Streedhan property to the respondent. It is further submitted that the girl child named Vaani Agarwal will live under the care and custody of the respondent Nidhi Agarwal.

Situated thus, the petition u/s 13(1)(i-a) and (i-b) of Hindu Marriage Act, 1955 is hereby converted to petition u/s 13(B) of Hindu Marriage Act.

Since, this Court is fully convinced that parties have agreed to dissolve their marriage by mutual consent, there is no need to further waste time at the peril of the petitioners.

After all, procedure is the handmaid of justice, it should not come in the way of giving substantive justice to the parties.

Accordingly, having been fully satisfied from all respect that decree of divorce by mutual consent has been the ultimate relief sought by the parties without any force, coercion, threat or fraud by either side, the decree of divorce by mutual consent as sought by the parties is hereby granted.

Prepare the decree accordingly.

(C.B. Gogoi)
District Judge
Sonitpur, Tezpur

