

**SUPREME COURT OF INDIA**

Ashita Pancholia

Vs.

Viral M Pancholia

(Altamas Kabir, Harjit Singh Bedi, JJ.)

14.05.2008

**ORDER**

1. When the transfer petition was taken up, learned counsel of both the parties submitted that I.A.No.2 of 2008 had been filed jointly by the parties praying for conversion of the suit under Section 13 of the Hindu Marriage Act, 1955 to one under Section 13B, and thereafter, to waive the waiting period of six months and to grant a divorce on that basis. Mr. Divan, learned senior counsel appearing for the petitioner- wife, has referred to two decisions of this Court in the case of i) Swati Verma (Smt.) Vs. Rajan Verma and others [2004(1) SCC 123], and ii) Sanghamitra Ghosh Vs. Kajal Kumar Ghosh [2007(2) SCC 220], where in a similar situation, this Court had come to the conclusion that since the marriage had broken down irretrievably, there would be no useful purpose in continuing with the same in the circumstances in this case are almost identical to those in the two cases cited before us, we allow the application, being I.A. No.2/2008, and grant the relief prayed for,

as indicated hereinbelow:-

"a)convert the suit filed under Section 13 of the Hindu Marriage Act, 1955 being M.J. Petition No. A 2152 of 2007 pending in the Family Court at Bandra-Kurla Complex, Bandra (East) Mumbai into a suit for divorce by mutual consent under Section 13B of the Hindu Marriage Act,1955;

b)dissolve the marriage of the petitioner and the respondent solemnized on 26th June, 2004 by a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act;" Consequently, the transfer petition as also the pending suit under Section 13 of the Hindu Marriage Act, are no longer relevant, and are dismissed as infructuous."

