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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010144952026**

\+ CONT.CAS(C) 586/2026

VIKAS .....Petitioner

Through: Mr. Rahul Sharma, Ms. Jyoti Dutt Sharma, Mr. Chinmaya K. Bhatt, Mr. Himanshu Gautam, Ms. Amrita Pandey and Mr. Mani Kant, Advocates.

versus

SONU .....Respondent

Through: Mr. Sagar Teotia & Mr. Keshav Nagi, Advocates.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

O R D E R

% 03.11.2026

1. Contempt Petition under Section 12 read with Section 10 of the Contempt of Courts Act, 1971**,** has been filed alleging *wilful disobedience of the mediated Settlement Agreement dated 17.10.2025*, arrived at between the parties before the Mediation Centre, Karkardooma Courts, Delhi, in HMA No. 690/2025 titled as 'Vikas vs. Sonu'.

2. The Respondent is present in the Court along with learned Counsel.

3. Briefly stated, during the pendency of the Divorce Petition, the parties were referred to the Mediation Centre, where they arrived at a mediated Settlement dated 17.10.2025, whereby the parties agreed to seek dissolution of their marriage by Mutual Consent under Section 13B of the Hindu Marriage Act, 1955. It was agreed that the First Motion Petition would be filed on or before 10.11.2025, and the Second Motion Petition would be filed after expiry of the statutory period. The Petitioner agreed to pay a total sum of Rs.3,60,000/- to the Respondent in two equal instalments of

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Rs.1,80,000/- each, the first instalment being payable at the time of recording of statements in the First Motion and the second instalment at the time of recording of statements during the Second Motion.

4. In HMA No. 690/2025, statements of both parties were recorded on 28.10.2025, in which they endorsed the aforesaid mediated Settlement dated 17.10.2025, pursuant to which the Petitioner withdrew his Divorce Petition.

5. The Petitioner asserted that thereafter, the draft First Motion Petition along with the affidavits was prepared and shared with the Respondent through her learned Counsel. However, the Respondent declined to sign the same, despite repeated requests and reminders.

6. It is further submitted that serious prejudice has been caused to the Petitioner, who had arranged the amount of Rs.1,80,000/- towards the first instalment and had got the Demand Draft prepared on 06.12.2025. The Petitioner claims that he had arranged the amount by availing a loan and has been paying interest thereon. It is further his case that the Demand Draft was renewed on 09.03.2026 and that he has suffered financial prejudice on account of the Respondent's conduct.

7. It is asserted that the Respondent's conduct is wilful and contumacious and amounts to disregard of the mediated Settlement dated 17.10.2025, endorsed by the parties in their statements made before the Court on 28.10.2025. Therefore, the Petitioner seeks initiation of contempt proceedings and punishment of the Respondent for committing contempt.

8. **Learned counsel for the Respondent appears on advance Notice**, accepts Notice and submits that though the Respondent had entered into the mediated Settlement dated 17.10.2025, she is now not inclined to seek dissolution of marriage by mutual consent and has, therefore, refused to sign

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the joint Divorce Petition under Section 13B(1) of the Hindu Marriage Act, 1955.

Submissions heard and record perused.

9. Admittedly, the parties had arrived at a mediated Settlement dated 17.10.2025 and had endorsed the same in their statements made before the HMA Court on 28.10.2025. It is also not in dispute that the Petitioner had got prepared the First Motion Petition for divorce under Section 13B(1) of the HMA, but the Respondent declined to sign the same.

10. In the judgment of *Smt. Sureshta Devi v. Om Prakash*, (1991) 2 SCC 25, the Supreme Court has held that mutual consent of the parties must continue till the passing of the decree of divorce. Either party is at liberty to withdraw consent before the decree is passed and, in the absence of subsisting mutual consent, a decree of divorce under Section 13B of the Hindu Marriage Act cannot be granted.

11. In the judgment of *Chhavi Agarwal v. Anurag Goel*, 2025:DHC:5080-DB, the Division Bench of this Court has also considered the issue of refusal by a party to proceed with a petition for divorce by mutual consent. It was held that refusal to proceed with the Second Motion, by itself, would not constitute wilful disobedience so as to invite contempt proceedings. The Court further observed that contempt proceedings cannot be used to indirectly compel a party to proceed with divorce by mutual consent, when the law itself recognises the right of either party to withdraw consent before the decree is passed.

12. The Respondent is not inclined to seek divorce by mutual consent and has, therefore, declined to sign the First Motion Petition. In view of the legal position discussed above, the Respondent cannot be compelled to give her

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consent for dissolution of marriage by mutual consent. The judgment relied upon by the Petitioner, laying down the principles relating to breach of settlement agreements, particularly those arrived at through mediation, has to be considered in the facts and circumstances of each case.

13. Thus, merely because the Respondent has had second thoughts and is no longer inclined to seek divorce by mutual consent, her conduct cannot be held to constitute wilful and deliberate disobedience warranting initiation of contempt proceedings. The essential ingredients of Civil Contempt are, therefore, not made out.

14. The mere fact that the settlement was arrived at before the Mediation Centre and was thereafter, placed before the Family Court, would not, by itself, establish wilful disobedience within the meaning of Section 2(b) of the Contempt of Courts Act, 1971.

15. It is also relevant to note that the Respondent has not received any amount under the settlement. The first instalment of Rs.1,80,000/- was payable at the time of recording of statements in the First Motion proceedings, which stage never cause. Though the Petitioner withdrew his Divorce Petition in terms of the settlement, this circumstance, by itself, would not be sufficient to hold the Respondent guilty of wilful disobedience of an Order or Undertaking given to the Court. The Petitioner would be at liberty to avail of such other remedies as may be available to him in law, for enforcement of the settlement / legal rights.

16. There is no merit in the present Contempt Petition, which is hereby, **dismissed** along with pending Applications.

NEENA BANSAL KRISHNA, J.

NOVEMBER 3, 2026/*R*

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