
PETITIONS UNDER THE HINDU MARRIAGE ACT, 1955

Before giving any model form of application under the matrimonial laws, it is necessary to know what kind of petitions are contemplated in matrimonial causes. The Hindu Marriage Act, 1955, has provided for the following important petition:

1. Petition for restitution of conjugal rights (sec. 9)
2. Petition for judicial separation (sec. 10)
3. Petition for void or nullity of marriage (sec. 11)
4. Petition for divorce by dissolution of marriage (sec. 13)
5. Petition for maintenance *pendent lite* (sec. 24)
6. Petition for alimony and maintenance (sec. 25)
7. Petition for custody of children (sec. 26)

Such reliefs are also obtained under the Special Marriage Act, 1954, the Indian Divorce Act, 1889, and other personal laws.

Under the rules framed by the Bombay High Court it is necessary to state the following facts in the petition for (i) judicial separation, (ii) Nullity of marriage, and (iii) Divorce in addition to the point given in O. VII, r. 1, C.P.C. and S. 20(1) of the Hindu Marriage Act. (i) Place and date of marriage, (ii) name of the state of domicile of the wife and husband before and after marriage (iii) the principal permanent address where they are cohabiting including the address where they raised together, (iv) birth or ages of such issues, (v) whether there had been any proceeding in India, if so what were they and with what result, and on behalf of whom? (vi) Matrimonial offences or offence charged should be set out in separate paragraphs with time and place of its commission, (vii) property presented at or about the time of marriage and jointly owned by both husband and wife, and (viii) relief or reliefs prayed for.

All matrimonial petitions shall lie in the Court of the District Judge (Family Courts wherever established) within whose local limits of the jurisdiction the marriage was solemnised, or within whose local limit of the jurisdiction the parties to the marriage last resided together, or within whose jurisdiction the respondent has been residing; but in the Metropolis of Mumbai, Calcutta, Chennai and Ahmadabad, these petitions shall lie in the City Civil Court of the respective metropolitan town.

By virtue of Section 14 Hindu Marriage Act, 1955, the Petition for Divorce cannot be presented within one year of marriage unless leave is taken from the court to present before on the ground of exceptional hardship.

The Petitions under Hindu Marriage Act are to be presented before District Judge within the local limits of whose jurisdiction

- (a) The Marriage was solemnized; or

- (b) The respondent at the time of presentation of the petition, resides, or
- (c) The parties to the marriage last resided together, or
- (d) In case the wife is the petitioner, where she is residing on the date of presentation of the petition, or
- (e) The petitioner is residing at the time of presentation of the petition in a case where the respondent is, at the time, residing outside the territories to which the Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.

The districts in which the Family Courts have been established under Family Courts Act, 1984, the petitions shall lie before the Principal Judge, Family Court (Section 7 and 8 Family Courts Act, 1984)

Every petition shall state distinctly the following facts-

- (a) That the marriage of the petitioner was solemnized with the respondent in accordance with Hindu rites and ceremonies onat.....and and affidavit to the effect has to be enclosed
- (b) That there is no collusion between the petitioner and the other party in presenting the petition for annulment of the marriage. This fact need not be pleaded in case of petition under section 11 of the Act.
- (c) In case the Petition for Divorce is filed on the ground of cruelty of the respondent, it has to be specifically pleaded that the petitioner has not condoned the act of the respondent.
- (d) Where the petition for divorce on mutual consent is filed, affidavits of both the parties are to be attached.
- (e) In case of petition for Restitution of Conjugal rights, it has to be pleaded that the respondent has withdrawn from the company of petitioner without any reasonable cause.
- (f) In the petition under the Act, the details regarding the status and place of residence of the parties to the marriage before the marriage and at the time of presentation of the petition have to be provided.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of Parties	Nature of Proceedings with Section of that Act	Number and year of the case	Name and location of court	Result
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(i)

(ii)

(iii)

9. That the marriage was solemnized at..... The parties last resided together at..... The parties are now residing at.....

(Within the local limit of the ordinary original jurisdiction of this Court.)

10. That the petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition

PRAYER

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of restitution of conjugal rights under Section 9 of HMA in favor of petitioner.

Any other relief/order/Direction this Hon'ble Court may deem fit in the interest of justice and equity.

PETITIONER

Through

Delhi

Dated

ADVOCATE

VERIFICATION

The above named petitioner states on solemn affirmation that paras 1 toof the petition are true to the petitioner's knowledge and paras.....to..... are true to the petitioner's information received and believed to be true by him/her.

Verified at.....(Place)

Dated.....

PETITIONER

[NOTE: AN AFFIDAVIT OF PETITIONER IS TO BE APPENDED]

* * * * *

IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT (DISTT.), DELHI
HMA PETITION NO. _____ OF 2017

IN THE MATTER OF :

IN THE MATTER OF :

Xs/o PETITIONER

R/o

VERSUS

Yw/o RESPONDENT

R/o

PETITION FOR JUDICIAL SEPARATION UNDER SECTION 10
OF THE HINDU MARRIAGE ACT, 1955 (NO. 25 OF 1955)

The petitioner prays as follows:

1. That A marriage was solemnized between the parties according to Hindu rites and ceremonies on dtat.....The said marriage is registered with the Registrar of marriage. A certified copy of the relevant extract from the Hindu Marriage Register.....is filed herewith.

An affidavit, duly attested.

2.that the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of Residence	Status	Age	Place of Residence
(i) Before marriage						
(ii) At the time of filling the petition						

(Whether a party is a Hindu by religion or not is as part of his or her status).

3. that the (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. That the respondent has.....(any one or more of the grounds available under section 10 may be pleaded here. The matrimonial offences charged should be set in separate paragraphs with times and places of their alleged commission. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits.)

5. (where the ground of petition is on the ground specified in clause (i) of section 13 (1). The petitioner has not in any manner been necessary to or connived at or condoned the acts complained of.

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. that the petition is not presented in collusion with the respondent.

8. that there has not been any unnecessary or improper delay in filing the petition.

9. that there is no other legal ground why relief should not be granted.

10. that there have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of Parties	Nature of Proceedings with Section of that Act	Number and year of the case	Name and location of court	Result
(i)					
(ii)					
(iii)					
(iv)					

11. That the marriage was solemnized at..... The parties last resided together at..... The parties are now residing at..... (Within the local limit of the ordinary original jurisdiction of this Court)

12. That the petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition

PRAYER

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of Judicial Separation under Section 10 of HMA in favor of petitioner.

Any other relief/order/Direction this Hon'ble Court may deem fit in the interest of justice and equity.

PETITIONER

Delhi
Dated

Through
ADVOCATE

VERIFICATION:

The above named petitioner states on solemn affirmation that paras 1 to____ of the petition are true to the petitioner's knowledge and paras____ to_____ are true to the petitioner's information received and believed to be true by him/her.

Verified at_____ (Place)
Dated_____

PETITIONER

[Note : An affidavits of petitioner is to be appended]

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IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT (DISTT.), DELHI

HMA PETITION NO. _____ OF 2017

IN THE MATTER OF:

X _____ ... PETITIONER
 VERSUS
 Y _____ ... RESPONDENT

**PETITION FOR DISSOLUTION OF MARRIAGE BY A DECREE OF DIVORCE
 UNDER SECTION 13 OF THE HINDU MARRIAGE ACT, 1955 (NO 25 OF 1955)**

The petitioner prays as follows

1. That a marriage was solemnized between the parties according to Hindu rites and ceremonies after the commencement of the Hindu Marriage Act on _____ at _____. The said marriage is registered with the Registrar of marriage.

A certified copy of the relevant extract from the Hindu Marriage Register.....is filed herewith.

An affidavit, duly attested stating above facts has also been filed.

2. That the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of Residence	Status	Age	Place of Residence
(i) Before marriage						
(ii) At the time of filling the petition						

(Whether a party is a Hindu by religion or not is as part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. That the respondent.....(one or more of the grounds specified in section 13 may be pleaded here. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits. If ground as specified in clause (i) of Section 13 (i) is pleaded, the petitioner should give particulars as nearly as he can, of facts of voluntary sexual intercourse alleged to have been committed. The matrimonial offences/offences charged should be set in separate paragraphs with the time and places of their alleged commission.

5. (Where the ground of petition is on the ground specified in clause (i) of sub-section (1) of Section 13. The petitioner has not in any manner been accessory to or connived at or condoned the act(s) complained of).

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. That the petition is not presented in collusion with the respondent.

8. That there has not been any unnecessary or improper delay in filing the petition.

9. That there is not other legal ground why relief should not be granted.

10. That there have not been any previous proceedings with regard to the marriage by or on behalf of any part.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of Parties	Nature of Proceedings with Section of that Act	Number and year of the case	Name and location of court	Result
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(i)

(ii)

(iii)

(iv)

11. That the marriage was solemnized at..... The parties last resided together at..... The parties are now residing at..... (Within the local limit of the ordinary original jurisdiction of this Court.)

12. That the petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition

PRAYER

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of divorce under Section 13 of HMA in favor of petitioner.

Any other relief/order/Direction this Hon'ble Court may deem fit in the interest of justice and equity.

PETITIONER

VERIFICATION:

The above named petitioner states on solemn affirmation that paras 1 to ___ of the petition are true to the petitioner's knowledge and paras ___ to ___ are true to the petitioner's information received and believed to be true by him/her.

Verified at _____ (Place)

Dated _____

PETITIONER

[**Note :** An affidavit of petitioner is to be appended]

IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT (DISTT..), DELHI

HMA PETITION NO. _____ OF 2017

IN THE MATTER OF:

X _____ ... PETITIONER NO. 1

AND

Y _____ ... PETITIONER NO. 2

PETITION FOR DISSOLUTION OF MARRIAGE
BY A DECREE OF DIVORCE BY MUTUAL CONSENT UNDER
SECTION 13-B(1) OF THE HINDU MARRIAGE ACT, 1955
(NO. 25 TO 1955)

Most Respectfully showeth:

1. That a marriage was solemnized between the parties according to Hindu rites and ceremonies on _____ at _____. A certified copy of the relevant extract from the Hindu Marriage Register is filed herewith. An affidavit, duly attested stating these facts is filed herewith.

2. That the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of Residence	Status	Age	Place of Residence
(i) Before marriage						
(ii) At the time of filling the petition						

(Whether a party is a Hindu by religion or not is as part of his or her status).

3. (In this paragraph state the place where the parties to the marriage last resided together and the names of the children, if any, of the marriage together with their sex, dates of birth or ages.)

4. That the parties to the petition have been living separately since _____ and have not been able to live together since then.

5. That the parties to the petition have mutually agreed that their marriage should be dissolved.

6. That the mutual consent has not been obtained by force, fraud or undue influence.

7. That the petition is not presented in collusion.

8. That there has not been any unnecessary or improper delay in instituting the proceedings.

- 9. That there is no other legal ground why relief should not be granted.
- 10. That the petitioners submit that this Court has jurisdiction to entertain this petition.

PRAYER

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of divorce on mutual consent thereby dissolving the marriage between petitioner No. 1 and Petitioner No. 2 on the ground of mutual consent.

PETITIONER NO. 1
PETITIONER NO. 2

VERIFICATION

The above named petitioner states on solemn affirmation that paras 1 to ____ of the petition are true to the petitioner's knowledge and paras ____ to ____ are true to the petitioner's information received and believed to be true by him/her.

Verified at _____ (Place)
Dated _____

PETITIONER NO. 1
PETITIONER NO. 2

[**Note** : An affidavits of petitioners is to be appended]

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