



2026:DHC:7518-DB



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
CNR No. DLHC010367302026

Reserved on: 11.08.2026
Pronounced on: 07.09.2026

+ MAT.APP.(F.C.) 285/2026
POONAM

.....Appellant

Through: Mr. Manoj Singh, Adv.

versus

STATE NCT OF DELHI

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VIVEK CHAUDHARY
HON'BLE MS. JUSTICE RENU BHATNAGAR

J U D G M E N T

1. The present appeal has been filed by the appellant-wife under Section 19 of the Family Courts Act, 1984, against the Order dated 14.05.2026 ("Impugned Order") passed by the learned Family Court-02 (South), District Saket Courts, Delhi ("Family Court") in HMA No. 849/2026 titled "**Poonam v. Vimal Prasad**", whereby the petition along with the documents was returned to the appellant under Order VII Rule 10 of the Code of Civil Procedure, 1908 ("CPC") for presentation before the appropriate Court, on the ground that the Family Court lacked territorial jurisdiction in view of Section 19 of the Hindu Marriage Act, 1955 ("HMA").
2. Briefly stated, the facts are that the marriage between the appellant and the husband, Sh. Vimal Prasad, was solemnized on

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18.01.2019 according to Hindu rites and ceremonies at Gurugram, Haryana. After the marriage, the parties resided together at the matrimonial home of the husband at Sangam Vihar, Delhi for about one and a half to two years, during which period the marriage was consummated and three children were born from the wedlock. The appellant alleges that she was subjected to cruelty by the husband throughout the marriage, particularly on account of his habitual consumption of alcohol. The husband thereafter secured employment at Gurugram, pursuant to which the parties shifted to a rented accommodation at Gurugram, where the alleged cruelty continued. About two weeks prior to the filing of the divorce petition, the appellant was allegedly turned out of the matrimonial home and has, since then, been residing separately near her parental home, along with the children, without financial support from the husband.

3. Pursuant to the aforesaid facts, the appellant filed a petition under Section 13(1)(i-a) of the HMA before the Family Court, seeking dissolution of marriage on the ground of cruelty, which was returned vide impugned order passed by learned Family Court, holding that it lacked territorial jurisdiction under Section 19 of the HMA. It was noted by the Family Court that, as per the coloured copy of the marriage invitation card placed on record, the marriage between the parties had, in fact, taken place at Phool Vatika, Gurugram, Haryana, and that both the appellant and the husband were, admittedly, residing at Gurugram. The learned Family Court accordingly held that the parties had last resided together at Gurugram, and that the mere fact that they had resided together for some period at Sangam Vihar, Delhi,



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was insufficient to confer territorial jurisdiction upon the courts at Delhi under Section 19(iii) of the HMA. The petition was, accordingly, directed to be returned for presentation before the appropriate court, giving rise to the filing of the present appeal.

4. The impugned order has been assailed by the appellant on the ground that the learned Family Court failed to appreciate that the parties had resided together at Sangam Vihar, Delhi for about one and a half to two years, and that the said residence was, by itself, sufficient to confer territorial jurisdiction upon the courts at Delhi under Section 19(iii) of the HMA.

5. The appellant submits that the said residence at Sangam Vihar, Delhi, having continued for about one and a half to two years immediately after the marriage, cannot be treated as a place of merely transient or fleeting stay, and that Section 19(iii) of the HMA does not require the residence to be the last in point of time so long as the parties resided together as husband and wife within the jurisdiction of the court concerned.

6. At this stage, it is relevant to note that the present appeal has been filed by the appellant against the State of NCT of Delhi. However, the respondent-husband, against whom the original divorce petition was filed and whose pleadings and conduct form the subject matter of the proceedings, has not been impleaded as a respondent in the present appeal.

7. We fail to comprehend as to how the present appeal, challenging an order passed in divorce proceedings between the appellant-wife and the respondent-husband, could be maintained





against the State of NCT of Delhi, particularly when the respondent-husband has not been impleaded as a party to the present appeal.

8. In view of the aforesaid defect in the array of parties, though present appeal itself is not maintainable, even then we proceeded to consider the submissions of the appellant even on merits.

9. We have heard the learned counsel for the appellant and have perused the material on record.

10. Before deciding the controversy, it is pertinent to note the provisions of Section 19 of the HMA, which reads as under:

“19. Court to which petition shall be presented.-

Every petition under this Act shall be presented to the district court within the local limits of whose ordinary original civil jurisdiction

(i) the marriage was solemnised, or

(ii) the respondent, at the time of the presentation of the petition, resides, or

(iii) the parties to the marriage last resided together,
or

(iiia) in case the wife is the petitioner, where she is residing on the date of presentation of the petition, or

(iv) the petitioner is residing at the time of the presentation of the petition, in a case where the respondent is, at that time, residing outside the territories to which this 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.” (emphasis added)

11. The question that arises for consideration is whether, in terms of Section 19(iii) of the HMA, the parties had last resided together within



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the territorial jurisdiction of the Family Court at Delhi, and for deciding this, we should advert to the pleadings of appellant in the divorce petition. The relevant portions of the petition are reproduced hereinbelow:-

“5. That right from the day of her marriage, the petitioner has been subjected to taunts, humiliation, exploitation, deprivation, maltreatment and uses of filthy languages and frequent beatings and tortured, cruelty at the hands of the respondent and his family members. That the petitioner lived at her matrimonial house in Sangam Vihar for about one and half years and thereafter the

respondent got a job in Gurugram therefore the petitioner and respondent shifted to Gurugram and started living there in a rented accommodation.

14. That about two weeks ago the respondent threw the petitioner out of the house and did not even allow to take her clothes and her children along with her and the whole night she stayed outside her house and in the morning she developed some courage and went to the police station Gurugram to complain against the respondent but even the police personnel did not take any action and advised her to approach the court to seek her remedies.

32. That the petitioner and respondent after their marriage resided together at House No.1807, L-I, Gali No.5, Near Asthal Mandir Sangam Vihar, South Delhi, Delhi-110062 for about two years within the jurisdiction of this Hon 'ble Court hence this Hon 'ble Court has the jurisdiction to try and entertain the present petition.”

12. If we go by the pleadings of appellant, it is reflected that the parties stayed together at Sangam Vihar, Delhi for around one and a half to two years after their marriage on 18.01.2019 and therefore shifted to Gurugram, where they stayed together until two weeks prior



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to filing of the divorce petition, which was filed in May 2026.

13. Merely relying upon the parties' earlier residence at Sangam Vihar for about one and a half years cannot confer territorial jurisdiction upon the learned Family Court when, admittedly, the parties thereafter shifted to Gurugram and lastly resided together there. The requirement under Section 19(iii) of the HMA is that the parties must have last resided together within the territorial jurisdiction of the Court. The parties resided together for around one and a half to two years at Sangam Vihar, Delhi whereafter they resided together for more than four years at Gurugram. In view of this factual position, we find ourselves unable to accept the submissions urged on behalf of the appellant. The impugned order correctly records that the parties last resided together at Gurugram, and not at Sangam Vihar, Delhi.

14. Reliance placed by learned counsel for the appellant upon the judgment of this Court in *Renu Vij v. Surinder Kumar*, C.M.(M) No. 251/1984, *Balvinder Kaur v. Mukul Kumar Srivastava*, 2008 SCC OnLine All 1188 and *Vijay Singh v. Chanchal Chaudhary*, 2016 SCC OnLine Del 2218, is misplaced and not relevant in the facts of this case. None of the judgement lay down that any place where the parties had earlier resided together would confer jurisdiction under Section 19(iii) of the HMA irrespective of their subsequent residence. On the contrary, the statutory expression "the parties to the marriage last resided together" makes the last place of such joint residence determinative.

15. Accordingly, the present appeal stands dismissed on



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maintainability as well as on merits. Pending applications, if any, also stand disposed of.

VIVEK CHAUDHARY, J

RENU BHATNAGAR, J

SEPTEMBER 07, 2026 */bs/ns*

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