REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SWATI VERMA V. RAJAN VERMA (2004)

BENCH: Mr. Justice N. Santosh Hegde & Mr. Justice B.P. Singh **DECIDED:** December 6, 2003

RATIO DECIDENDI & PRECEDENTIAL CRUX:
Supreme Court has power under Article 142 to waive the statutory six-month waiting period under Section 13B(2) HMA where marriage is irretrievably dead.

1. Factual Matrix & Background:

The parties had been living separately for over five years with numerous criminal and civil litigations pending. They resolved all disputes and filed a joint petition for mutual consent divorce under Section 13B HMA, praying for waiver of the statutory six-month waiting period under Section 13B(2).

2. Substantive Legal Questions Framed:

Whether the statutory six-month cooling-off period prescribed under Section 13B(2) of the Hindu Marriage Act can be waived to grant immediate divorce.

3. Analysis & Ratio Decidendi:

The Supreme Court held that where the marriage is totally and irretrievably broken down, the parties have lived separately for several years, and all disputes regarding permanent alimony and custody have been settled, compelling the parties to wait for six months serves no purpose. The Court in exercise of powers under Article 142 waived the cooling-off period and granted an immediate decree of divorce.

4. Principles Enunciated:

- 1. Section 13B(2) six-month period can be waived where reconciliation is impossible.
- 2. Prolonged separation and comprehensive settlement justify immediate decree.
- 3. The object of Section 13B is to facilitate peaceful parting, not enforce agony.

5. Practical Litigation Implications:

- When parties reach a full settlement in prolonged litigation, file a joint application under Section 13B(2) showing prolonged separation to seek waiver of the 6-month period.

.....J.
[SUPREME COURT BENCH]

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