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Balancing Legislative Intent and Practical Justice: The Case for Virtual Conciliation in Matrimonial Proceedings

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In a significant ruling dated 9 March 2026, the High Court of Gujarat at Ahmedabad, presided over by the Honourable Mrs. Justice M. K. Thakker, allowed a Special Civil Application filed under Article 227 of the Constitution of India, challenging an order passed by the learned Family Court No. 5, Ahmedabad. The judgment, bearing neutral citation 2026:GUJHC:17292, addresses the increasingly relevant question of whether a party residing abroad may participate in conciliation proceedings under the Hindu Marriage Act, 1955, via video conferencing and delivers a resounding affirmation in favour of technology-enabled justice.

Factual Background

The petitioners Palakben Ravi Luni (Petitioner No. 1) and her husband (Petitioner No. 2) were married on 15 April 2024 in Ahmedabad. Within days of solemnization, Petitioner No. 2 relocated to the United States of America and the parties have lived separately since 21 April 2024. The marriage was never consummated. Contact between the parties was limited to video calls and WhatsApp communications. Irreconcilable differences rendered the relationship untenable and all attempts at reconciliation by family members and well-wishers proved futile.

The parties, being well-educated individuals, voluntarily agreed to dissolve the marriage by mutual consent. They exchanged all gifts, articles and dowry items, and Petitioner No. 1 unconditionally waived all claims to permanent alimony or maintenance under any applicable statute. On 9 September 2025, they jointly filed Family Suit No. 3017 of 2025 before the Family Court under Section 13(B) of the Hindu Marriage Act, 1955.

The Disputed Order

Since Petitioner No. 2 was unable to be physically present in India, the suit was filed through a duly constituted Power of Attorney holder, along with an undertaking that Petitioner No. 2 would appear via video conferencing. An application under Exh. 9, dated 14 November 2025, was accordingly moved, seeking permission to conduct the mandatory conciliation proceedings through video conferencing. The Family Court rejected this application, holding that conciliation could not be validly conducted through virtual means. This order was challenged before the High Court.

The Legal Question

The central issue for adjudication was whether, in proceedings for mutual consent divorce under Section 13(B) of the Hindu Marriage Act, 1955, a party residing abroad can be exempted from personal appearance and permitted to participate in the statutory conciliation process via video conferencing. This question sits at the intersection of procedural law, technological innovation and the principles of access to justice.

Cases Cited and Analyzed by the Court

The High Court conducted an extensive independent legal analysis, referencing nine Supreme Court precedents that collectively shaped its reasoning on two distinct issues, the scope of Section 13B of the Hindu Marriage Act and the permissibility of video conferencing in conciliation proceedings.

1. On the Scope of Section 13B and the Cooling-Off Period

1. **Amit Kumar v. Suman Beniwal — (2023) 17 SCC 648**

This was the most recent and comprehensive authority cited by the High Court on the scope of Section 13B. The Supreme Court clarified that the conditions enumerated in Amardeep Singh are illustrative and not exhaustive, and that courts must not mechanically treat them as mandatory preconditions. The Court laid down eight guiding factors, including the length of marriage, duration of cohabitation, period of separation, pendency of litigation, possibility of reconciliation, existence of children, and the voluntariness of settlement, to be considered while deciding whether to waive the cooling-off period. The Court observed that where the marriage is a non-starter and reconciliation is impossible, prolonging proceedings only deepens the parties' agony.

2. On the Permissibility of Video Conferencing in Family Court Proceedings

2. **Krishnaveni Nagam v. Harish Nagam — (2017) 4 SCC 150**

In the context of transfer petitions, the Supreme Court had earlier taken a liberal position and held that permitting a party residing at a distant location to participate in Hindu Marriage Act proceedings via video conferencing would meet the ends of justice. This case represented the first judicial recognition of video conferencing as a tool of access to justice in matrimonial disputes.

Santhini v. Vijaya Venkatesh — (2018) 1 SCC 1

This was the central case relied upon by the Family Court to reject the petitioner's application, and it received the most detailed analysis by the High Court. A larger bench of the Supreme Court overruled Krishnaveni Nagam to the limited extent that no direction for video conferencing can be issued in a transfer petition. However, and this was the crux of the High Court's reasoning, Santhini simultaneously preserved and explicitly conferred a discretion on the Family Court to permit video conferencing in appropriate circumstances. Specifically, the Supreme Court held that after settlement efforts fail, if both parties file a joint application or individual consent memoranda, the Family Court may allow the proceedings through video conferencing; and even independent of such an application, the Family Court retains the discretion to allow video conferencing if it finds that doing so would sub-serve the cause of justice having regard to the facts and circumstances of the case. The High Court found that the Family Court had entirely overlooked this crucial aspect of the Santhini ruling and had instead treated it as an absolute bar.

3. On the Doctrine of Precedent and Fact-Specific Application

3.

Union of India v. Amritlal Lal Manchanda — (2004) 3 SCC 75

Cited to directly criticize the Family Court's blind and mechanical application of Santhini, the Supreme Court had famously cautioned in this case: *"Each case depends on its own facts and a close similarity between one case and another is not enough because even a single significant detail may alter the entire aspect… one should avoid the temptation to decide cases by matching the colour of one case against the colour of another… Precedent should be followed only so far as it marks the path of justice, but you must cut the dead wood and trim off the side branches else you will find yourself lost in thickets and branches."*

State of Orissa v. MD. Illiyas — (2006) 1 SCC 275

The High Court invoked this authority to reinforce the principle that reliance on a judicial decision without carefully examining its underlying factual background is impermissible. The Supreme Court had held that a decision is a precedent on its own facts, and only the ratio decidendi, the principle of law upon which the case is decided, is binding. Every observation made by a judge while delivering a judgment does not constitute a precedent, and the words used in a judgment are not to be read as if they were words in an Act of Parliament.

Court's Analysis

The High Court undertook a nuanced examination of the ruling in Santhini, observing that while the larger bench of the Supreme Court therein overruled Krishnaveni Nagam v. Harish Nagam, (2017) 4 SCC 150, it nonetheless expressly preserved the Family Court's discretion to permit video conferencing after settlement fails provided both parties consent or file a joint application. The Court found that this was precisely the factual situation in the present case and that the learned Family Court had ignored this crucial aspect of the ruling.

The High Court highlighted several compelling circumstances: the parties had separated within days of marriage; nearly one and a half years had elapsed; the marriage had not been consummated; all property had been exchanged; alimony claims had been voluntarily waived; and all efforts at reconciliation had conclusively failed. In this context, the Court held that compelling Petitioner No. 2 to travel from abroad solely to participate in a conciliation exercise with no realistic prospect of success would be both unfair and unreasonable.

The Court further affirmed that appropriate deployment of technology serves the cause of access to justice and that family court proceedings are not excluded from this principle. Video conferencing, being a widely accepted technological facility that enables face-to-face interaction across locations, ensures efficient and expeditious judicial proceedings. The Family Court's refusal, without adverting to the specific facts, was characterised as a miscarriage of justice that could not be sustained in law.

The Final Decision

The High Court allowed the petition and quashed and set aside the impugned order dated 14 November 2025. The Family Court was directed to proceed with the petition under Section 13B of the Hindu Marriage Act, permitting Petitioner No. 2 to participate in the conciliation proceedings via video conferencing.

Significance of the Ruling

This judgment carries significant implications for Non-Resident Indians and persons residing abroad who are parties to matrimonial proceedings in India. It firmly establishes that courts must exercise contextual judicial discretion rather than engage in mechanical application of precedent. It also reaffirms that technology-based participation in judicial proceedings is a legitimate and judicially recognised means of enabling access to justice particularly in cases where the marriage has irretrievably broken down and insistence on physical presence would serve no meaningful purpose.

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