**Mutual Consent Divorce Petition |**

**Step By Step Guide**

**What is divorce by mutual consent?**

The parties can seek divorce by mutual consent by filing a petition before the court under section 13-B of the Hindu Marriage Act, 1955. In a divorce by mutual consent, mutual consent means both the parties have agreed on peaceful separation.

If you want to come out of your marriage then the mutual divorce consent petition is a simple way to dissolve it legally. The only thing that matters here is the mutual consent between the husband and wife who are going to be separated using this mutual consent divorce phenomena.

There might be a question into your mind like what will happen to child custody? So, that’s not a big deal it can be worked out between the parties effectively. Child custody in mutual consent divorce can be shared or joint or exclusive depending upon the understanding of the spouses. So, I will say a better understanding between your mother and your father will make your future better.

Now the questions come into my mind that where can the mutual consent divorce be filed? and when can the diverse mutual consent be filed? Let’s See this.

**When can the mutual consent divorce be filed?**

One thing that you need to keep into a mind that if you want to get separated like if you are the parties then you have to wait for at least one year from the date of marriage to file a mutual consent divorce petition.

Do you know why this is required? because they have to show that they have been living separately for a period of a year or more than a year before the presentation of the petition for divorce. And the second reason is that they have to show that they are living separately and now they are not living as husband and wife from a long time.

We already have provided the mutual consent divorce petition format here on our website. You can follow that if you need this.

**Where to file the mutual consent divorce petition?**

If you are the party, then you can file the mutual divorce consent petition in the family court of the city or the district court of the city, in other terms the court of their matrimonial home.

Now you have got the idea of where to file the mutual consent divorce petition and when to file the divorce by mutual consent. Now the questions come into my mind is – Is there different laws of divorce for different religion in India?

**Divorce laws for different religion in India**

In the Indian constitution, different laws for diverse for different religions. For example- Hindu Marriage Act, 1955 covers Hindu Sikh Jain and Buddha. Indian divorce act -1569 and Indian Christian Marriage Act, 1872 covers Christian families. Whereas Muslims are governed by personal laws of divorce and also by The dissolution of Marriage Act. 1939 and the Muslim Women (protection of rights on divorce) Act. 1986.

Similarly, the Parsis are governed by the Parsi Marriage and Divorce Act 1936. Other than these all regional diverse acts we have a secular law called Special Marriage Act, 1954.

**How to file the mutual consent divorce petition in the court?**

A divorce petition is a form of an affidavit which the party summit in the family court. After the filing of a petition and the recording the statement of both the parties. Generally, the court adjourned the matter for a period of 6 months.

**What will happen in the court after filing a mutual consent divorce petition?**

After 6 months the father and the mother or the parties have to present themselves again in the court for making the second motion confirming the mutual consent divorce petition filed earlier.

**Can anyone withdraw the mutual consent petition after filing in the court? What will be the scenario then?**

Yes, anyone from the party who has gone for mutual consent divorce is fully entitled to withdraw the divorce consent by filing an application before the court stating that he/she does not wish to seek the mutual consent divorce. But this can only be done during the period of six months when the petition is pending in the court.

In circumstances like this, the court grants no divorce decree. So, the question comes into my mind is, what will the other party or partner do under such circumstances.

**What should be my next step if I were the other partner in this situation?**

There is no option available to the other party to such circumstances except to file a normal petition for divorce under the provisions of Section 13 of the Hindu Marriage Act, 1950.

In situations like this, the divorce can be granted only on certain specified grounds like cruelty; desertion; voluntary sexual intercourse with another person; the other spouse being of unsound mind; conversion of religion by the other spouse; Leprosy; venereal disease; a spouse having renounced the world or being missing for a period of more than 7 years.

I hope now you got a clear idea about what should be the next step that can be followed by the other partner.

Can the spouse consent for remarriage without getting a divorce from the existing partner?

Remarriage without getting a divorce is a punishable offence with seven years imprisonment. So, be aware of this and let your partner know that you are going for remarriage on mutual understandings.

Should the divorce be applied, If either of the spouses is not heard for a long time?

If you have the absence proof of a spouse without any prior information to the other spouse about his whereabouts for a continuous seven years period. A petition can be filed in this regard in the court.

**When a divorcee can remarry?**

Depending on the nature of decree and after the expiry of three months from the date of the decree if no notice of appeal is received by the person remarrying from the other person.

I want to go for Mutual consent divorce, how much it costs?

If you want to go for mutual consent divorce then the cost would be around 25000 to 75000 on the type of lawyer you have hired.

But if you want to reduce the cost of mutual consent divorce petition then you should file this divorce petition by yourself and documentation should be done by you. If you need our help in the documentation process of mutual consent divorce petition then you can contact us on this.

How much time does the whole process take from filing the mutual consent petition in the court till the passing of the decree (judgment) by the court?

If you ask me about the time for this whole process, then there is no certainty in this depending on the case and depending on the location you are in, it can take up to 6 months also or it can take up to 1 year also and in some cases it can take more than 1 year as well.

**Final Words on Mutual Consent Divorce Petition**

Look, I am a lawyer and I should not say this but still, I am saying this to you and the parties who are going to file a mutual consent divorce petition. Divorce is not a solution. If there are any misunderstandings between you and your partner then you can sit and talk together on the things which are creating issues in your life.

I am nobody to suggest anything on this but still, I will suggest you to solve all your matters on your own goodwill. Enjoy your life, take a risk for your children. help each other, stay with each other. love each other and make this life smoother than anything else.

Let’s give your relation, another chance with a positive approach. Things will be better I guarantee that.