

## **DIVORCE BY WAY OF MUTUAL CONSENT:**

If both the husband and wife decides to divorce there is a provision to obtain divorce by mutual consent of both the parties. Herein both the parties are petitioners and no opponents.

The precondition to file the petition is that the couple should be living separately for one year or two years (as per the relevant act) and are able to prove that they have not been able to live together. The duration of the divorce petition is six months to eighteen months.

While filing the divorce petition by way of mutual consent, three aspects regarding which a husband and wife have to reach a consensus.

- a) Alimony or maintenance issues- As per law, there is no minimum or maximum limit of support. It could be any figure or no figure.
- b) Custody of the child. Child custody can also be shared or joint or exclusive depending upon the understanding of the spouses.
- c) Property. The husband and wife must decide their share and arrangements regarding the properties after divorce including movable and immovable properties, bank accounts, shares, jewelleries, loans liabilities etc everything must be divided. It is not necessary for it to be fair, so long as it is agreed to by both parties.

As per Section 13 B of Hindu Marriage Act, 1955 and Section 28 of the Special Marriage Act, 1954, the couple should be living separately for at least one year before divorce proceedings can begin. However section 10A of Divorce Act, 1869, requires the couple to be separated for at least two years.