



HMA S. 9, 13(1-A)(ii) , 23(1)(a) - Decree for restitution of Conjugal rights passed against wife not complied - She is still entitled to divorce.

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[hindu marriage act](#), 1955 Section 9, 13(1-A)(ii) , 23(1)(a) - Decree for restitution of Conjugal rights passed against wife under section 9 - More than one year has elapsed - Whether by [filing](#) the present petition wife , who had suffered the decree and had refused to resume cohabitation, can be a ground to invoke the provision of Section 23 (1) (a) of the Act - It may be true that the husband had initiated proceedings for [execution of decree](#) but the fact is that the same remained unexecuted and admittedly there had been no cohabitation for more than one year between the parties - Resultantly, it was open to either of them to apply for dissolution of [marriage](#) by a decree of divorce under the provisions of Section 13 (1-A) (ii) of the Act - Refusal to resume cohabitation was not a ground to invoke the provisions of Section 23 (1) (a) of the Act of 1955 so as to plead that he/ she was taking advantage of his/her own wrong - Wife is entitled to a decree of divorce under Section 13 (1-A) (ii) of the Act .

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Tags: [HMA S. 13\(1-A\)\(ii\)](#), [HMA S. 23\(1\)\(a\)](#), [HMA S. 9](#)