

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION(CIVIL) NO(S).118 OF 2020

PRIYANKA DWIVEDI

....PETITIONER(S)

Versus

DEEPAK KUMAR DWIVEDI

....RESPONDENT(S)

ORDER

The prayer in this petition is for transfer of the divorce petition filed by the respondent husband under Section 13(1)(i-a) and (i-b) of the Hindu Marriage Act, 1955 (for short “HMA”) pending before the Court of Principal Judge, Family Court, Bangalore to the Court of Principal Judge, Family Court, Korba, Chhattisgarh.

After hearing the matter, both the parties have consented that if the matter is sent for mediation, they may explore the possibility of settlement of their matrimonial differences through the process of mediation. Taking note of the wishes of the parties, this Court by an

order dated 21st March, 2022 directed the parties to appear for mediation before the Supreme Court Mediation Centre for settlement of their matrimonial differences.

In the course of the mediation proceedings, the parties entered into a deed of settlement dated 9th May, 2022 and it was amicably resolved with the assistance of the Mediator that let the pending dispute filed at the instance of either of the parties arising from this matrimonial relation may be quashed and set aside on the terms and conditions which have been amicably settled between the parties. A copy of the deed of settlement has been duly signed by the parties in the presence of the witnesses of the respective counsel and by the Mediator on 9th May, 2022.

The deed of settlement dated 9th May, 2022 has been taken on record. It has been agreed upon between the parties that they may jointly request this Court to grant a decree of divorce by consent under Section 13B of the HMA.

Along with learned counsel for the parties, the petitioner wife and respondent husband are present through videoconferencing. The petitioner has stated that all matrimonial differences have been settled

in terms of the deed of settlement. Both the parties in the presence of their counsel have requested this Court to grant a consent decree of divorce by exercising its jurisdiction under Article 142 of the Constitution taking into consideration the deed of settlement arrived at between the parties dated 9th May, 2022.

In view of the terms of the deed of settlement dated 9th May, 2022 and the statement made by the parties, we are satisfied that there is an overall settlement of the matrimonial dispute and the parties have voluntarily agreed to dissolve their marriage by mutual consent.

Apart from other cases instituted against the parties inter se, the divorce petition came to be filed by the respondent husband under Section 13 of the HMA for seeking a decree of divorce. In the deed of settlement, the parties have jointly stated that due to matrimonial discord, there is an irretrievable breakdown of marriage and they have decided to withdraw the allegations which have been levelled in the course of different proceedings initiated between the parties inter se and wants to bury all their past, present and the future acrimonies and disputes arising out of their matrimonial relation and do not want to indulge in any manner to interfere between the affairs of each other in future in any respect and means including on the social media etc.

and have decided to dissolve their marriage by mutual consent.

We have gone through the records and find that both the parties are well educated and are fully aware of their rights and obligations, and living separately since the year 2014 and because of their irresolvable dispute and on their personal introspection, both of them are persuaded that it will be in their joint interest if they dissolve their marriage with mutual consent after taking aid of Section 13B of the HMA.

When it has not been possible to live together and to discharge their matrimonial obligations towards each other and are residing separately immediately after their marriage and have been litigating for quite some time and having not reconciled to live together, this Court finds no reason in the circumstances to prolong their agony any further and more so, when they have settled their matrimonial differences amicably to dissolve their marriage by mutual consent as indicated in the deed of settlement dated 9th May, 2022.

In the above circumstances, in our view, this is one of those cases where we may invoke and exercise the power vested in this Court under Article 142 of the Constitution.

The cases of which details have been furnished in the deed of settlement are as under:-

- (i) Criminal Case No.CC:28342 of 2017 pending in Court of Chief Metropolitan Magistrate arising out of FIR No.159 of 2014, P.S.-Kodigehalli, Karnataka.
- (ii) Case No.MJC 05/2015 disposed of by the Court of District and Session Judge, Korba, Chhattisgarh under the Protection of Women from Domestic Violence Act.
- (iii) Case No. MJC 15/2018 decided by the Court of Principal Judge, Family Court, Korba, Chhattisgarh under Section 125 of Code of Criminal Procedure.
- (iv) Matrimonial Case being MC No.1609 of 2018 pending in the Court of Principal Judge, Family court, Bangalore, Karnataka u/s 13 of the Hindu Marriage Act filed by the husband for decree of divorce.
- (v) Appeal No.44 of 2019 filed before First Additional Sessions Judge, Korba disposed of on 27.11.2019.

All the aforesaid proceedings which admittedly arising from this matrimonial relation stand closed.

We accordingly, convert the present petition into proceedings under Section 13B of the HMA and by invoking our power under Article 142 of the Constitution, we grant them a decree of divorce by mutual consent, as jointly prayed by them.

Accordingly, the present petition stands disposed of.

Registry is directed to prepare the decree in compliance of this order and make it available to both the respective parties.

Parties to bear their own cost.

Pending application(s), if any, shall stand disposed of.

.....**J.**
(AJAY RASTOGI)

.....**J.**
(B.V. NAGARATHNA)

NEW DELHI;
AUGUST 29, 2022.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSTRANSFER PETITION(S)(CIVIL) NO(S). 118/2020

PRIYANKA DWIVEDI

PETITIONER(S)

VERSUS

DEEPAK KUMAR DWIVEDI

RESPONDENT(S)

(List on 29.08.2022 vide Hon'ble Court order dated 08.08.2022)

(IA No. 12014/2020 - STAY APPLICATION)

Date : 29-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MRS. JUSTICE B.V. NAGARATHNAFor Petitioner(s) Mr. Manohar Pratap, Adv.
Ms. Bhavana Bisht, Adv.
Ms. Manju Jetley, AORFor Respondent(s) Mr. Dipak Kumar Jena, AOR
Mr. Sandeep, Adv.UPON hearing the counsel the Court made the following
O R D E RTransfer petition stands disposed of in terms of the signed
order.

Pending application(s), if any, shall stand disposed of.

(POOJA SHARMA)
COURT MASTER (SH)(MONIKA DEY)
COURT MASTER (NSH)

(Signed order is placed on the file.)