

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

TRANSFER PETITION (CIVIL) NO. 889 OF 2020

WITH

I.A. No. 14035 OF 2021

MIFTA SANA

Petitioner(s)

VERSUS

MEHRAJ IQBAL SHAIKH

Respondent(s)

O R D E R

The Court is convened through Video Conferencing.

This joint application has been moved by the husband and wife (petitioner and respondent), invoking the powers of this Court under Article 142 of the Constitution and to dissolve their marriage by way of a decree of divorce by mutual consent. The parties who belong to Muslim faith, solemnized their marriage on 9th February, 2018 which was duly registered before the Office of Civil Registrar, Mormugao, Goa on 16th May, 2018. It is averred that the parties could not cohabit together due to fundamental differences and are living separately for more than 1½ years. There is no issue out of the wedlock. As a result of the dispute and differences between the parties, the respondent-husband filed a divorce petition in the Court of Civil Judge, Senior Division, Vasco Da Gama (Goa). Thereafter, petitioner-wife filed the instant transfer petition seeking

transfer of the aforesaid divorce petition from Vasco Da Gama to the Family Court at Bangalore.

During the pendency of these transfer proceedings, counsel for the parties made earnest efforts for an amicable solution of the matrimonial dispute and pursuant thereto, the parties have entered into a Memorandum of Understanding dated 14th December, 2020, a copy whereof has been appended as Annexure A-2.

The salient features of the Memorandum of Understanding are to the following effect:

"I. That the FIRST PARTY has drawn a DD for an amount of Rs.11,00,000/- (Rupees Eleven lakhs Only) in favour of Mr. L. MAHABOOB ALI KHAN, FATHER of SECOND PARTY as return of the part amount received from the father of the SECOND PARTY towards purchase of 4 wheeler namely JEEP COMPASS.

II. The FIRST PARTY and the SECOND PARTY shall not have any claims whatsoever against each other towards any monetary claims, assets or properties (movables and immovable) belonging, inherited or purchased by either of them in the past, present or in the future.

III. The FIRST PARTY and the SECOND PARTY have today on the execution of this Memorandum of Understanding exchanged the Gold ornaments and other articles and belongings.

IV. The FIRST PARTY unconditionally withdraws all the allegation, if any against the SECOND PARTY in the divorce petition filed by him i.e. matrimonial petition no. 49/2019/B, before the Hon'ble court of civil judge senior division at Vasco-Da-Gama, Goa.

V. Similarly The SECOND PARTY unconditionally withdraws all the allegation if any against the

FIRST PARTY in the written statement filed by her i.e. matrimonial petition no. 49/2019/B, before the Hon'ble court of civil judge senior division at Vasco-Da-Gama, Goa.

VI. The FIRST PARTY Mehraj Iqbal Shaikh, his family members and SECOND PARTY Mifta Sana, her family members shall not file any (civil or criminal) cases against each other and their other family members of both sides in future.

VII. The FIRST PARTY undertakes to hand over the DD as stated in Para 3 (i) above to the SECOND PARTY on the date of Decree of Divorce.

VIII. The FIRST PARTY and SECOND PARTY have agreed to seek divorce by mutual consent as per the terms of the MOU stated above.

IX. The present MOU is signed out of free will of both the parties, without force, coercion, undue influence, misrepresentation or mistake. IN WITNESS WHEREOF the parties hereto have signed and subscribed their respective signatures on this agreement after having read and fully understood its contents fully."

It may, thus, be seen that the parties have mutually agreed to dissolve their marriage by way of a decree of divorce subject to the condition that the respondent-husband shall pay a sum of Rs. 11 lakhs to the father of the petitioner-wife and also subject to other terms and conditions mentioned therein. Learned counsel for the parties jointly state that all other terms and conditions are/will be duly honoured and the husband has prepared a Demand Draft of Rs. 11 lakhs in favour of the father of the petitioner-wife, which shall be handed over to Shri Gaurav Agrawal, learned counsel for the wife, during the course of the day. In view of such undertaking and having regard to the fact that the parties have decided to part ways by

way of mutual consent, I find it a fit case to invoke the powers under Article 142 of the Constitution to do complete justice to the parties. Ergo, joint petition filed by the parties is allowed and their marriage is dissolved by way of a decree of divorce. Ordered accordingly.

The decree of divorce passed hereinabove is subject to the condition that the agreed amount of Rs. 11 lakhs shall be paid during the course of the day. The parties shall hitherto be at liberty to seek cancellation of the registration of their marriage and upon any such application, the Prescribed Authority is directed to cancel the registration without any delay. The joint petition and transfer petition are disposed of in the above terms.

.....J.
[SURYA KANT]

NEW DELHI

DATED : 19-03-2021

