

IA 154174/2018,124975/2021, in Transfer Petition(s)(Civil) No(s).
1800/2018

AKANSHA RASHMI **Petitioner(s)**

VERSUS

AMIT KUMAR SRIVASTVA Respondent (s)

(TO BE LISTED BEFORE THE DIVISION BENCH AS JOINT APPLICATION FOR SETTLEMENT HAS BEEN FILED BY THE PARTIES

IA No. 124975/2021 - APPLICATION FOR SETTLEMENT

IA No. 154174/2018 - EX-PARTE STAY)

WITH

**T.P.(Cr1.) No. 87/2019 (XVI-A)
FOR EX-PARTE STAY ON IA 23708/2019
IA No. 23708/2019 - EX-PARTE STAY)**

Date : 19-01-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Parties

Mr. Rudreshwar Singh, Adv.
Mr. Kaushik Poddar, AOR
Mr. Anuj Handa, Adv.

Mr. Vikas Kumar, AOR

Mr. Vikas Kumar, Adv.
Mr. Manish Paliwal, Adv.
M/S Corporate Legal Partners, AOR

Mr. Kaushik Poddar, AOR

UPON hearing the counsel the Court made the following
O R D E R

The matter is heard through Video Conferencing.

The present Transfer Petition has been filed by the petitioner-wife, seeking transfer of HMA Case No. 1498 of 2018

titled "Amit Kumar Shrivastava vs. Smt. Akansha Rashmi" pending before the Court of Principal Judge, Family Court, Dwarka Courts, New Delhi to the Court of the Principal Judge, Family Court, Mumbai, Maharashtra.

IA No. 124975 of 2021 has been filed jointly by the petitioner and the respondent stating *inter alia* that a Settlement has taken place between the parties as per the settlement agreement dated 27.09.2021 and a decree of divorce dissolving the marriage by mutual consent be passed under Article 142 of the Constitution.

In this regard, it may be noted that the co-ordinate Bench of this Court in Transfer Petition(Civil) No. 908 of 2019, by a reasoned order dated 01.03.2021 held that while sitting singly such a decree of divorce by mutual consent cannot be passed having regard to provisions of Supreme Court Rules, 2013, and such a joint application ought to be dealt with by a Bench comprising two or more Hon'ble Judges as the Hon'ble Chief Justice of India may consider appropriate. The precise observations made by the co-ordinate Bench may be reproduced as under:

"8.....in my opinion, while a Single Judge of this court can exercise jurisdiction under Article 142 of the Constitution of India, this power or jurisdiction has to be confined to the four categories of cases referred to in the proviso to Order VI Rule (1) of the 2013 Rules only, or on subjects ancillary or directly relatable to time. Referring a case forming the core dispute in a transfer petition to the list pending before the Court. Annulment of marriage, however, in my view, cannot come within these four categories. I am of the view that while sitting singly this Court does not have the jurisdiction to take a decision on that plea made in the joint application. One of the preconditions for exercise of jurisdiction under Article 142 of the Constitution of India in passing order or decree for doing complete justice is that the cause or the matter in which the Court intends to invoke the provisions thereof must be

pending before it. Annulment of marriage cannot be linked to any cause or matter pending before this Court in the facts of the given cases. The transfer petition arose out of matrimonial dispute between the parties, but the expression 'cause or matter pending before it' cannot be stretched to cover all disputes originating from such matrimonial problem that can be resolved by this Court, sitting singly, while hearing a transfer petition. I am not expressing any doubt on the jurisdiction of this court under Article 142 of the Constitution of India to pass decree to dissolve a marriage on consent of the parties without adhering to the timeline and other procedural formalities stipulated in Section 13B of the 1955 Act. But I do not think that while sitting singly, such a decree can be passed having regard to the provisions of the Supreme Court Rules, 2013."

The aforesaid matter was thereafter placed before the two-judge bench as per the direction of the Hon'ble Chief Justice of India, and disposed of.

In view of the above, let this matter be placed before the Hon'ble Chief Justice of India for appropriate directions for giving effect to the terms of settlement entered into by and between the parties and broadly reflected in the joint application.

(JATINDER KAUR)
SENIOR PERSONAL ASSISTANT

(RAM SUBHAG SINGH)
BRANCH OFFICER