

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

TRANSFER PETITION(S)(CIVIL) NO. 1251 OF 2020

NITIKA RAWAL Petitioner(s)

VERSUS

MANISH KUMAR RAHUL Respondent(s)

O R D E R

This transfer petition is filed under Section 25 of the Code of Civil Procedure, 1908 by seeking transfer of Case No. 1717/2019 titled as "*Manish Kumar Rahul vs. Smt. Nitika Rawal*" pending on the file of the court of Principal Judge, Family Court, District Court, Lucknow (Uttar Pradesh) to the Family Court at Haridwar (Uttarakhand).

It is also noted that the marriage between the parties took place on 2nd December, 2015 at Haridwar but the parties have been residing separately since 15th January, 2017. It is also stated that there is no possibility of the parties resolving their dispute and co-habiting together. In the circumstances the condition mentioned in sub-section (1) of Section 13-B of the Act has been complied with in the instant case.

On issuance of notice to the respondent- husband, this Court had directed to explore the possibility of the settlement between the parties, and the matter was referred to the Mediation Center of the Supreme Court by order dated 12th November, 2021. The parties appeared before the Mediation Center.

Learned counsel for the respective parties namely, Mr. Ajay

Chand Sharma appearing for the petitioner- wife and Shri Dushyant Parashar, appearing for the respondent- husband submitted in unison that a joint application has been filed on behalf of the parties for grant of divorce by mutual consent under Section 13-B of the Hindu Marriage Act, 1955 on the terms and conditions set out therein read with Article 142 of the Constitution of India. They further submitted that the parties have agreed to resolve their disputes by deciding to get their marriage dissolved by a decree of divorce by mutual consent.

It has also been agreed by the respondent- husband to pay a sum of Rupees Twenty Lakhs as full and final settlement towards permanent alimony of the wife. In this regard, learned counsel for the respondent submitted that two demand drafts dated 25th March, 2022 for a sum of Rupees Ten Lakh each, drawn on Canara Bank, Jagdishpur near Amethi (U.P.) bearing Number 311307 and 311308 have been sent to the chamber of the learned counsel for the petitioner so as to be handed over to the petitioner.

Learned counsel for the respective parties appearing virtually also submitted that the parties are in their respective offices and they have appeared virtually. They have identified their respective parties.

When queried by this Court, the parties submitted that they have indeed decided to end their marriage by seeking a decree of divorce by mutual consent on the terms and conditions termed out in the joint petition. They further submitted that they have arrived at the said settlement out of their own free volition

without there being any coercion or undue influence from any quarter.

Learned counsel for the respondent submitted that the two demand drafts have been dispatched through his office clerk to the chamber of the petitioner to be handed over to the petitioner. Learned counsel for the respondent acknowledged receipt of the two demand drafts (DD Nos. 311307 and 311308 dated 25th March, 2022) which he has handed over to the petitioner who has acknowledged the receipt of the same.

In the circumstances, learned counsel for the respective parties submitted that the transfer petition may be disposed of recording the settlement as arrived between the parties.

The memorandum of settlement filed in the form of a joint application under Article 142 of the Constitution of India read with section 13-B of Hindu Marriage Act, 1955 is taken on record and perused. The same shall form part of this order. The parties have also filed their individual affidavits in support of the said application made by them. The settlement agreement arrived at between the parties before the Mediation Center is also filed. It is noted that the settlement agreement has been signed by the respective parties as well as by the respective counsel and the father of the petitioner and the father of the respondent as well as the mediator, Supreme Court of India. The same is dated 6th December, 2021.

On perusal of the settlement agreement and also the joint application by the respective parties, I find that the terms of the settlement arrived at between the parties are lawful and there

is no reason not to accept the same. It is also noted that though the application is filed on 21st January, 2022 under Section 13-B(1) of the Act. This is on the premise that the parties are living separately for one year and there is no possibility of reconciliation and cohabitation in future. Having regard to the judgment of this Court in the case of **Amardeep Singh vs. Harveen Kaur** reported in 2017(8) SCC 746, the statutory period of six months as provided under sub-sections 2 of 13-B(1) is dispensed with.

In the circumstances, by exercising jurisdiction under Article 142 of Constitution of India, the marriage between the parties is dissolved by a decree of divorce, by mutual consent in terms of section 13-B of the said Act.

In the circumstances, the marriage between the parties solemnised on 2nd December, 2015 at Ludu Club, BHEL, Haridwar is dissolved by a decree of divorce by mutual consent on the aforesaid terms.

The Registry is to draw a decree accordingly.

The transfer petition is accordingly disposed of.

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

New Delhi
28th March, 2022

ITEM NO.1607 Court 12 (Video Conferencing)

SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Civil) No(s). 1251/2020

NITIKA RAWAL

Petitioner(s)

VERSUS

MANISH KUMAR RAHUL

Respondent(s)

(MEDIATION REPORT RECEIVED.

IA No. 9876/2022 - APPLN. UNDER ARTICLE 142 OF THE CONSTITUTION
R/W SEC 13B OF H.M.A.

IA No. 42983/2021 - EXEMPTION FROM FILING O.T.

IA No. 114684/2020 - STAY APPLICATION)

Date : 28-03-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Ajay Chand Sharma, Adv.
Miss Meera Kaura, AOR

For Respondent(s) Mr. Dushyant Parashar, AOR
Mr. Dinesh Pandey, Adv.
Mr. Manu Parashar, Adv.

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

In terms of the signed order, by exercising jurisdiction under Article 142 of Constitution of India, the marriage between the parties is dissolved by a decree of divorce, by mutual consent in terms of section 13-B of the said Act.

In the circumstances, the marriage between the parties solemnised on 2nd December, 2015 at Ludu Club, BHEL, Haridwar is dissolved by a decree of divorce by mutual consent on the aforesaid terms.

The Registry is to draw a decree accordingly.

The transfer petition is accordingly disposed of in terms of the signed order.

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

(SNEHA)
SENIOR PERSONAL ASSISTANT

(MALEKAR NAGARAJ)
BRANCH OFFICER (NSH)

(Signed order is placed on the file.)

ITEM NO.1607 Court 12 (Video Conferencing) SECTION XVI-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Transfer Petition(s)(Civil) No(s). 1251/2020

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VERSUS

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HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Ajay Chand Sharma, Adv.
Miss Meera Kaura, AOR

For Respondent(s) Mr. Dushyant Parashar, AOR
Mr. Dinesh Pandey, Adv.
Mr. Manu Parashar, Adv.

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

The transfer petition is allowed in terms of the signed order.

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

(SNEHA)
SENIOR PERSONAL ASSISTANT

(Signed order is placed on the file.)

(MALEKAR NAGARAJ)
BRANCH OFFICER (NSH)