

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
TRANSFER PETITION (CIVIL) NO. 1447 OF 2020

LAYA MAHESH ... Petitioner(s)

VERSUS

NAREN RAVISHANKAR ... Respondent(s)

O R D E R

Learned counsel for the parties have drawn our attention to the Memorandum of Understanding arrived at between them on 03.03.2021 at Bangalore as also the joint application dated 23.11.2021 (I.A. No.153007 of 2021) supported by affidavits of both the parties; and have submitted that all the ongoing disputes between the parties having been amicably resolved, appropriate and necessary orders be passed in this regard.

The petitioner-wife has filed this petition under Section 25 of the Code of Civil Procedure, 1908 read with Order XLI of the Supreme Court Rules, 2013 seeking transfer of the petition for annulment of marriage, being M.C. No. 3882 of 2020 titled Naren Ravishankar vs. Laya Mahesh, filed by the respondent-husband from the Court of the Principal Family Judge, Family Court, Bangalore, Karnataka to the Court of Family Judge, Vellore, Tamil Nadu.

On 03.03.2021, the parties mutually decided to annul their marriage in terms of the agreement for annulment of marriage; and the agreement was signed by the parties in presence of their

respective counsel as also two witnesses. A joint application was filed by the parties seeking annulment of marriage on the terms and conditions stipulated in the agreement dated 03.03.2021 and to grant a decree of annulment by invoking our powers under Article 142 of the Constitution of India.

On the matter being placed before this Court on 13.11.2021, we expressed reservations in granting a decree for annulment of marriage by mutual consent, particularly where the prayer was not for seeking dissolution of marriage by a decree of divorce of mutual consent. The parties have, now, filed the joint application (I.A. No.153007 of 2021), seeking a decree of divorce by mutual consent, thereby dissolving their marriage, in exercise of our powers under Article 142 of the Constitution of India. The relevant contents of the application read as under:

- "1. Applicant No.1 filed the instant Transfer Petition (C) No. 1447 of 2020 under section 25 of the Code of Civil Procedure, 1908 read with Order XLI of the Supreme Court Rules, 2013 seeking transfer of the petition M.C. No. 3882 of 2020 filed in mid-October 2020 before the Family Court of Principal Family Judge, Bangalore by Applicant No.2 herein, under Section 12(1)(c) of the Hindu Marriage Act, 1955 for annulment of marriage titled as 'Naren Ravishankar versus Laya Mahesh'.
2. Applicant No.1 has also filed a petition towards end October 2020 for annulment of her marriage with Applicant No. 2 and the same is pending before the Hon'ble Family Court, Vellore, Tamil Nadu.
3. It is submitted that marriage between Applicant 1 and Applicant 2 was solemnized on 28.08.2020 at B&B Club, Mayflower, Karnambut, Vellore, Tamil Nadu as per Hindu rites and customs. Thereafter, Applicant no.1 left the matrimonial

home on 20.09.2020. It is submitted that irreconcilable differences arose between the parties and in view of such differences, the parties have been living separately since 20.09.2020. Applicant No.1 has been living in Tamil Nadu whereas the Applicant No.2 has been living in Bangalore.

4. That both the parties instituted respective petitions for annulment of marriage:
 - a. Applicant No.2 instituted M.C. No. 3882 of 2020 in mid-October 2020 u/s 12(1)(c) of the Hindu Marriage Act, 1955 pending before the Principal Family Judge, Family Court, Bangalore.
 - b. Applicant No.1 instituted a FCOP No. 221 of 2020 in end October 2020 u/s 12(1)(a) and (c) of the Hindu Marriage Act, 1955 pending before the Family Judge, Vellore; and
5. Applicant No.1 was required to appear before Family Court, Bangalore in MC No.3882 of 2020 and therefore, Applicant No.1 filed the present Transfer Petition before this Hon'ble Court. It is, however, submitted that after filing of the present Transfer Petition, an Agreement for Annulment of Marriage dated 03.03.2021 has been entered into between the parties herein and the said Agreement has already been brought on record by Applicant No.1 vide I.A. No. 33924 of 2021 filed on 05.03.2021.
6. The understanding in the Agreement dated 03.03.2021 is such that the parties have decided to part ways amicably and seek annulment of their marriage before this Hon'ble Court. Parties have further agreed to withdraw respective proceedings filed by both the parties before the Family Courts at Bangalore and Vellore, and further to withdraw all allegations made against one another.
7. It is submitted that both the parties have taken their time and settled their disputes and differences, including maintenance and other such issues. It is further submitted that the marriage was non-consummated, the parties have been living separately since 20.09.2020 with there now being no possibility of cohabitation between the parties and the marriage between the Applicants has irretrievably broken down.

8. That in furtherance of the said agreement, the above named Applicants herein had filed a Joint application seeking Annulment of marriage before this Honourable Court on 20.10.2021 (IA No. 135619 of 2021) and the matter was heard on 13.11.2021 wherein this Hon'ble Court directed the Applicants herein to file appropriate application for appropriate reliefs and adjourned the matter to 26.11.2021. Relevant portion of the order dated 13.11.2021 passed by this Hon'ble Court is being reproduced hereinbelow:

"The parties have moved a joint application seeking annulment of marriage. Upon our expressing reservations in granting a decree for annulment of marriage by mutual consent, particularly where the prayer is not for seeking dissolution of marriage by a decree of divorce by mutual consent, learned counsel for the parties pray for sometime to file an appropriate application for appropriate reliefs."

True copy of the order dated 13.11.2021 passed by this Hon'ble Court in TP (C) No. 1447 of 2020 is annexed hereto and marked as Annexure P/1.

9. Applicants by way of the present joint application are thus seeking the gracious indulgence of this Hon'ble Court to grant a decree of divorce by mutual consent and thereby dissolve the marriage between the Applicants herein in exercise of powers under Article 142 of the Constitution of India.
10. It is submitted that this Hon'ble Court has exercised its power under Article 142 of the Constitution of India and granted decree for Dissolution of marriage by way of a decree of divorce by mutual present in the cases of *Sabita Shashank Singh vs Shashank Shekhar Singh* [T.P. (C) No. 908 of 2019]; *Anusha Shrivastava vs Vikash Nigam* [T.P. (C) No. 2072 of 2018]; *Hironmoy Sen & ANR. Vs The State of West Bengal & ANR.* [SLP (Cr1) No. 4695 of 2019]; *Priyanka Verma vs Kunal Verma* [C.A. No. 6213 of 2019]; *Aakansha Singh @ Neha vs Vivek Kumar Singh* [I.A. No.79412 of 2019 & T.P. (C) No.660 of 2019].

11. It is submitted that in order to meet the ends of justice, the parties seek the indulgence of this Hon'ble Court for acceptance and grant of the joint prayer made by the parties in the present application for dissolution of their marriage by passing a decree of divorce by mutual consent in exercise of powers vested under Article 142 of the Constitution of India."

PRAYER

In light of the facts and circumstances of the present case, it is most respectfully prayed that this Hon'ble Court be pleased to:

- a. Pass an order allowing the present application and in exercise of powers under Article 142 of the Constitution of India, grant a decree of divorce by mutual consent and thereby dissolve the marriage between the Applicants herein in in terms of agreement dated 03.03.2021 entered into between the parties; and
- b. Pass such further and other orders as this Hon'ble Court may deem fit in the interest of justice."

Having regard to the above, and in the peculiar circumstances of the case, we are of the considered view that the settlement arrived at between the parties deserves to be accepted; and the prayer jointly made, for dissolution of marriage solemnised on 28.08.2020, deserves to be granted. Further, it is also just and proper that all the proceedings pending between the parties be disposed of on the terms and conditions as stated and agreed to by the parties.

Accordingly, Annulment Petition M.C. No.3882 of 2020 pending in the Court of Principal Family Judge, Family Court, Bangalore, Karnataka stands withdrawn to this Court and stands disposed of

with reference to Section 13B of the Hindu Marriage Act, 1955 where, by invoking the powers under Article 142 of the Constitution of India, we grant a decree of divorce by mutual consent to the parties. Consequently, the marriage between the petitioner and the respondent solemnised on 28.08.2020 stands dissolved. As a necessary corollary, FCOP No. 221 of 2020 before the Family Court, Vellore shall also stand disposed of.

This transfer petition is disposed of in the aforementioned terms.

All pending applications also stand disposed of.

While disposing of the matter, we place on record our appreciation for the efforts made by the respective learned counsel in assisting the parties to arrive at an amicable settlement.

....., J.
(Dinesh Maheshwari)

....., J.
(Vikram Nath)

New Delhi;
November 26, 2021.

