

**HIGH COURT OF TRIPURA
AGARTALA
F.A. 10/2022**

Ila Sukla Das

----Appellant(s)

Versus

Bhabananda Das and anr.

----Respondent(s)

For Appellant(s) : Mr. S. Bhattacharjee, Advocate

For Respondent(s) : Ms. Sarama Deb, Advocate

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE ARINDAM LODH
Order**

01/06/2023

Heard learned counsel for the parties.

Both the parties are present.

The parties have arrived at a settlement. The terms of settlement are incorporated in the joint compromise petition filed under Order 23 Rule 3 of CPC, and jointly signed by the parties.

As per the terms of the settlement, parties have agreed to separate on payment of permanent alimony of Rs 12,00,000/- (rupees twelve lakh only) to be paid in two installments and other terms with the condition that the entire amount should be paid positively on or before the final decree of divorce. The parties have agreed to move an application for divorce through mutual consent under Section 13B of the Hindu Marriage Act, 1955, before the learned Family Court, Khowai Judicial District, Tripura. The terms of settlement are incorporated hereunder:

"TERMS AND CONDITIONS

(I) That, at the intervention of well-wishers, relatives, friends and their respective engaged Counsels, the Parties (the Petitioner-Wife and the Respondent-Husband) have agreed to withdraw allegation(s)/averment(s)/counter allegation(s), exchanged between them during their faint relationship.

(II) That, the Wife Petitioner, will take all necessary steps to withdraw the T.S(RCR) 03 of 2019 pending before the Ld. Family Court, Khowai, Tripura, prior to the date of filing of the mutual divorce petition under the Hindu Marriage Act,1955.

(III) That, the Wife Petitioner, will take all necessary steps to withdraw the Criminal Misc.11 of 2019, pending before the Ld. Family Court, Khowai, Tripura, prior to the date of filing of the mutual divorce petition under the Hindu Marriage Act,1955.

(IV) That, the Respondent Husband will continue to pay an amount of Rs.8,000/- per month, till the date of dissolution of their marriage on mutual consent. It is specifically agreed by the Wife Petitioner that, after the mutual decree of divorce, the Husband Respondent will not pay any amount in the nature of maintenance or she will not claim any amount of maintenance from the husband.

(V) That, after withdrawal of all the aforesaid proceedings, the Petitioner-Wife and the Respondent-Husband, shall mutually file an application U/s-13B of Hindu Marriage Act,1955, for Divorce on Mutual Consent, before the Ld. Family Court, Khowai, Tripura. Along with the same, both the Parties will jointly file separate application of waiving of cooling off period of 6 months, U/s-13(B)(2) of the Hindu Marriage Act,1955.

(VI) It is also agreed and decided between the parties, that, consolidated and full amount against all the claims in respect of present and future maintenance of the Petitioner, as permanent alimony and all other claimed and unclaimed dues @Rs.12,00,000/- (Rupees Twelve Lakh Only) shall be paid by the Husband Respondent, positively, on the date of filing an application for mutual divorce or before the date of final order, dissolving marriage between the parties, by the Ld. Family Court. If necessary, the Husband can provide the said amount of Rs.12,00,000/- (Rupees Twelve Lakh Only) by way of 2 installments, but the entire amount should be positively paid on or before the final decree of divorce, otherwise the Divorce proceedings cannot be adjudicated by the Ld Family Court. The wife Petitioner also assures that, in future she will not claim any maintenance from the Husband Respondent. The mode of transaction in both the occasion will be by way of Demand Draft/NEFT/Cash. No cheque payment will be entertained by the Petitioner. The Wife Petitioner shall give money receipt acknowledging receipt of the said amount. It is also agreed between the parties that, only amount of permanent alimony will be the permanent settlement in respect of all which includes the claims of property by the Wife Petitioner.

(VII) The Husband respondent, made proposal that, their son Bhaskar Das, will be residing with him and he will take all the responsibilities of the son. The Wife Petitioner agreed the said proposal of the Respondent husband in open mind. If the son desires to meet with the Petitioner, then Respondent shall have no objection to that effect.

(VIII) That, both the parties ensure and undertook that, in future, after dissolution of their marriage, none of them will disturb each other. As the Respondent Husband took the responsibility of the son, the Respondent also assured that their son Bhaskar Das will not also disturb the Petitioner in near future.

(IX) Both the parties, will take appropriate steps by producing the instant SOLENAMA, for doing the needful as mentioned above.

(X) This SOLENAMA has been executed between the parties with their mutual consent, free will, without any pressure, force, coercion or undue influence from any side.

(XI) This SOLENAMA is confined to the Petitioner and the Respondent only. It will not affect the rights & liabilities of the son, Mr. Bhaskar Das."

The appeal was preferred by the aggrieved wife against the judgment and decree dated 16.06.2022 passed by the learned Judge, Family Court, Khowai District, Tripura in T.S. (JS) 01 of 2018, where-under judicial separation was granted in favour of the plaintiff-husband/respondent herein.

However, during pendency of this appeal, the parties have arrived at an amicable settlement on persuasion by the court and the learned counsel representing them, on the terms and conditions contained in the settlement. As such, there is no purpose in adjudicating this appeal since the parties have agreed to move the competent Family Court for divorce through mutual consent under Section 13B of the Hindu Marriage Act, 1955.

Learned counsel for the parties submits that the parties are prepared to move the learned Family Court, Khowai District, Tripura on 07.06.2023, for filing an application for divorce through mutual consent. The parties have also decided to move an application for waiving of the cooling off period in view of the judgment rendered by the apex court in the case of *Amardeep Singh vs. Harveen Kaur*, reported in (2017) 8 SCC 746.

In that view of the matter, the instant appeal is disposed of in terms of the settlement.

Decree accordingly.

The joint compromise petition shall form part of the decree.

(ARINDAM LODH),J

Saikat

(APARESH KUMAR SINGH), CJ