

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD.

909 FCAST/7603/2015

SEEMA PANKAJ NIKAM @ SEEMA ASARAM THORAT
VERSUS
PANKAJ PRALHADRAO NIKAM

...
Advocate for Applicant : Mrs. Rasal Asha Sanjay.

...
CORAM : R. M. BORDE & P.R. BORA, JJ.
Date: October 09, 2015
...

PER COURT :-

1 This appeal can be disposed of by granting liberty to the appellant to tender a fresh Marriage Petition before the Family Court, Aurangabad. The appellant preferred a petition bearing No.A-52 of 2014 for grant of divorce. During pendency of the petition, there was an amicable settlement arrived and terms of settlement were placed on record and in view of the terms of settlement and since the petitioner and respondents were absent on the given date, the principal Judge, Family Court was pleased to close the proceedings as withdrawn by his order dated 23.7.2014. The appellant contends that, the settlement arrived at between the parties did not materialize and as such, it was not open for the Trial Court to close the case and that she intends to prosecute the remedy before the Family Court.

2 In the peculiar facts of the case, since the settlement is not materialized between the parties and the appellant is still aggrieved, it would be open for the appellant to present a fresh petition seeking divorce under section 13 of the Hindu Marriage Act to the Family Court and the Family Court shall proceed to decide such petition in accordance with provisions of law.

3 With liberty as aforesaid, the appeal is disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)