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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FAMILY COURT APPEAL NO.78 OF 2005**

Datta Rajaram Sagare	... Appellant
Versus	
Mrunalini Datta Sagare	... Respondent

**WITH
CIVIL APPLICATION NO.21 OF 2010 IN
FAMILY COURT APPEAL NO.78 OF 2005**

Mrunalini Datta Sagare	... Applicant
Versus	
Datta Rajaram Sagare	... Respondent

Mr. Bhushan A. Walimbe, for the Appellant in FCA No.78 of 2005 and for Respondent in CA No.21 of 2010.

Mr. P.D. Dalvi, for the Respondent in FCA No.78 of 2005 and for Applicant in CA No.21 of 2010.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 7th JULY, 2015

PC.

. Consent Terms duly signed by the Appellant - husband and the Respondent – wife marked 'X' for identification were taken on record on 20th August, 2013.

2. There is no dispute between the parties that a lumpsum amount of Rs.45 Lakhs which is payable in terms of clause 3 of the

Consent Terms has been paid by the Appellant to the Respondent.

3. In the Consent Terms, the parties have provided for conversion of Petition A No.325 of 2002 into a Petition under Section 13B of the Hindu Marriage Act, 1955. The parties have agreed to take a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act on payment of a sum of Rs.45 Lakhs by the Appellant to the Respondent.

4. In view of what is stated in the Consent Terms and in view of the evidence on record, we are satisfied that there is no collusion between the parties and they have voluntarily agreed to take divorce by mutual consent after being satisfied that the matrimonial tie cannot continue. The learned counsel appearing for the parties pointed out that there is no other subsisting dispute between the parties.

5. Accordingly, we dispose of the Appeal by passing the following order :

ORDER

- (i) The impugned Judgment and Decree dated 18th October, 2004 passed by the learned Judge of the Family Court, Pune in Petition A No.325 of 2002 is hereby quashed and set aside and the said Petition is restored to the file of the Family Court;

- (ii) By consent of the parties, Petition A No.325 of 2002 is converted into a Petition under Section 13B of the Hindu Marriage Act, 1955. The conversion shall relate back to the date of the institution of the said Petition;
- (iii) The marriage solemnized between the parties on 17th May, 1995 is hereby dissolved by a decree of divorce by mutual consent under Section 13B of the Hindu Marriage Act, 1955;
- (iv) In addition to the aforesaid decree, there shall be a decree in terms of the Consent Terms marked 'X' for identification;
- (v) The Appeal is disposed of on above terms. The pending Civil Application does not survive and the same is disposed of accordingly.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)