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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FAMILY COURT APPEAL NO.50 OF 2007

Ulhas Umesh @ Baba Kheedekar	... Appellant
Vs.	
Unnati Ulhas Khedekar	... Respondent

Mr. Prakash Mahadik, for the Petitioner.
Mr. A.N. Helekar, for the Respondent.

**CORAM : A.S. OKA &
A.K. MENON, JJ.**

DATE : 21st JANUARY, 2015

PC.

. On 12th December, 2014, consent terms duly signed by the Appellant and the Respondent and their respective Advocates have been filed which have been marked 'X' for identification. The verification of the consent terms is already recorded in order dated 12th December, 2014. The statements and undertakings in the consent terms have been accepted under the said order. However, an order in terms of the consent terms was not passed as the amount payable by the Appellant was not deposited.

2. It is pointed out that the Appellant has deposited a sum of Rs.5 Lakhs by Demand Draft dated 16th January, 2015 bearing No.016689 drawn on Bank of India in the name of Registrar General of

this Court. The said Draft has been deposited with the Registry on 19th January, 2015. He has also deposited another Demand Draft in the sum of Rs.5 Lakhs with the Registry on 19th December, 2014. Thus, the learned counsel appearing for the Appellant states that total amount of Rs.10 Lakhs has been deposited by the Appellant with the Registry by separate Demand Drafts in the sum of Rs.5 Lakhs each. We accept the statements.

3. Hence, the Appeal will have to be disposed of in terms of the consent terms.

4. Accordingly, we pass the following order :-

ORDER

- (i) The impugned Judgment and Decree dated 22nd December, 2006 passed by the Family Court at Bandra in Petition No.A-1043/2005 and E-205/2004 is hereby quashed and set aside;
- (ii) Petition No.A-1043/2005 shall be converted into a Petition under Section 13B of the Hindu Marriage Act, 1955 and shall be treated as the Petition filed under Section 13-B. The amendment shall relate back to the date of institution of the said Petition;
- (iii) After having perused the consent terms, we are satisfied

that there is no collusion between the parties and after finding that the marriage cannot be saved, they have agreed to dissolve the same by a decree of divorce by mutual consent;

- (iv) Accordingly, the marriage solemnized between the Appellant and the Respondent on 11th December, 2001 is hereby dissolved by a decree of divorce under Section 13B of the Hindu Marriage Act, 1955. Petition No.A-1043/2005 stands disposed of accordingly;
- (v) Though in view of the settlement, the decree passed in Petition No.E-205/2004 is set aside, we make it clear that the Appellant will not be entitled to claim refund of the amounts already paid by him under the orders passed in the said Petition;
- (vi) In addition to the aforesaid decree, there shall be a decree in terms of the consent terms;
- (vii) The Appeal is disposed of on above terms;
- (viii) The amount of Rs.10 Lakhs deposited by the Appellant in this Court shall be permitted to be withdrawn by the Respondent - wife.

(A.K. MENON, J)

(A.S.OKA, J)