



additional sum of Rs. 20 lakhs, as and by way of maintenance towards full and final settlement of the minor daughter, who is presently 9 years old. The demand drafts are handed over to the Respondent-wife in the Court today. The Respondent-wife has undertaken to keep the amount of Rs. 20 lakhs in the name of minor daughter Ritvika in the Scheduled Nationalized Bank in fixed deposit till she attains the age of majority.

3. The petition for divorce was filed in 2009 and appeal has been filed against the judgment and order of dismissal of the petition for divorce and granting of maintenance, in September, 2015. Since the divorce petition was pending since 2009, the parties had sufficient time to consider whether they would like to reconcile their differences and stay together, and after due deliberations they have now agreed to stay separate and get divorce by mutual consent. Since an application is made for conversion of the petition for divorce into a petition for divorce by mutual consent at the appellate stage, in view of the judgment of the Division Bench judgment in the case of – ***Santosh Lalmani Tiwari Vs. Aradhana Devi Santosh Tiwari [2013(1) Mh. L. J. 253]***, there is no impediment for conversion of the petition for

divorce into a petition for divorce by mutual consent under Section 13 (B) of the Hindu Marriage Act, 1955, and it is not necessary to wait for a period of six months from the date of application after it is filed.

In para 6 of the said Judgment, it has been observed as under:

“6. The intention of the Legislature was to provide minimum period of six months for rethinking of the parties. If the said provision is made applicable to the Appellate Court, it would be powerless to grant that relief on the basis of the application filed in the lower Court because 18 months must have elapsed by the time the matter reached the appellate forum although the parties are still fighting relentlessly in the Appellate Court and, therefore, in our view, the said waiting period of six months can be waived in a suitable case by the Appellate Court because it could not have been the intention of section 13B(2) that the Appellate Court should, in each case, insist that the parties should go through the futile and meaningless ceremony of again waiting for completion of six months. We are of the view, therefore, that when the Appellate Court is fully satisfied on the proved facts that marriage tie should be severed by mutual consent immediately since parties have been living separately for more than the time prescribed under section 13B and that they have been

fighting for sufficiently long period and in such a case, section 13B does not impose any fetter on the powers of the Court to grant instant decree of divorce.”

4. Consent-terms tendered by the parties in the Court are taken on record. Undertakings given by the parties are recorded. In view of the said consent-terms, the impugned judgment and order, refusing the decree of divorce, is set aside; the maintenance awarded to the Respondents in the impugned judgment and order is modified and a decree for maintenance stands satisfied for the Respondent-wife and the daughter. Decree be drawn-up accordingly. Both appeals are disposed of in the aforesaid terms.

5. Copy of the consent-terms tendered by the parties is kept in both the appeals, viz. Family Court Appeal Nos. 87/2015 and 90/2015. Parties shall file an additional set of consent-terms so that the same can be filed in petition, viz. M. J. Petition A-152 of 2009 in the Family Court.

Sd/-

[Dr. SHALINI PHANSALKAR-JOSHI, J.]

Sd/-

[V. M. KANADE, J.]

Vinayak Halemth