

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FAMILY COURT APPEAL NO. 98 OF 2013

Amitabh Joshi.

..Appellant.

Versus

Veena Sawkar.

..Respondent.

Mr. R. T. Lalwani i/b Prakash Mahadik for the Petitioner.
Mr. Manjula Rao for the Respondent.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **March 13, 2015.**

P. C. :

1. The Appellant herein has challenged the decree dated 8th February 2013 passed by the Family Court at Bandra, Mumbai in Petition No.A-2366 of 2007 whereby the custody of the child was ordered to be handed over to the Respondent.

2. The Appellant and the Respondent got married on 15th September 1996 as per Arya Samaj rites and subsequently on 19th January 2001 they performed marriage ceremony in the presence of their relatives. On 7th January 2002, the Appellant and the Respondent were blessed by a daughter. However, subsequent marital disputes resulted in relations being strained

which ultimately led the Appellant to the filing of divorce proceedings under section 13A of the Hindu Marriage Act, 1955 on the ground of cruelty, desertion, etc.

3. Upon considering the evidence adduced by the respective parties, by the impugned judgment and order dated 8th February 2013., the learned Judge of the Family Court has partly allowed the petition. The marriage between the Appellant and the Respondent herein was ordered to be dissolved by a decree of divorce. The custody of minor child was handed over to the Respondent herein. The Appellant herein was granted weekend access and further access for half of the winter, summer and Christmas vacations and on alternate birthday's of child. The Appellant herein has challenged the part of the decree whereby custody of the child was given to the Respondent.

4. During the pendency of this appeal, an attempt was made by us to bring about an amicable settlement between the parties. With total co-operation by the learned counsel and the respective parties, we were able to settle the dispute as per the

following terms :

"CONSENT TERMS

The Appellant and the Respondent agree for the disposal of the appeal in following terms :

- 1] To withdraw the allegations made by them against each other, in the proceedings.
- 2] To convert the decree of divorce into the decree of divorce by mutual consent under section 13-B of the Hindu Marriage Act, 1955. Marriage stands dissolved from the date of appellate decree.
- 3] That custody of minor child shall remain with the father, i.e., Appellant herein.
- 4] That, the Respondent – mother will have overnight access of the child on 2nd and 4th Saturday and Sunday of each month. Access time shall be from Saturday 11.00 a.m. to Sunday 4.00 p.m. In case of transfer of the Appellant, the Appellant shall intimate to the Respondent the change of address and his contact details.
- 5] That, the Respondent – mother will also have access to the child for the 50% period of Summer, Diwali and Christmas vacations. Both parties are entitled to take the child abroad during their respective access period, with intimation to other parent.
- 6] That, the Appellant shall pay to the Respondent a lumpsum amount of Rs.11 lacs towards the full and final settlement of all her dues. The Respondent shall not raise any other claim in future. The first installment of Rs. 3 lacs shall be paid by 31st March 2015. The second installment of Rs. 2 lacs shall be paid by 30th May 2015 and balance amount shall be paid by 31st July 2015.
- 7] That both parties shall co-operate with each other in bringing the child, keeping in mind the welfare of the child.
- 8] Decree be drawn up accordingly."

5. The consent terms are signed by the parties as well as by their respective counsel. The Appellant as well as the Respondent have stated before us that the terms are acceptable to them and have prayed to dispose of the appeal as per the terms.

6. Consent terms are taken on record and marked "X" for identification. Appeal is disposed of in terms of the consent terms. Registry to draw up the decree as per the consent terms.

7. In view of the disposal of main appeal, civil application, if any, taken out in this appeal, does not survive and same is accordingly dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]